

ANNOTATIONS

Citations of Precedents and Decisions on Rules of the House

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ADJOURNMENT—MOTION FOR.

Rule 13, Section 4, says that a motion to adjourn, except as herein-after provided in Rule 14, Section 6, and a motion to fix the day to which the House shall adjourn, shall always be in order. Rule 14, Section 6, says that no motion to adjourn or recess shall be in order after the previous question shall be taken, unless the roll call shows the lack of a quorum. Yet the universal practice is that the motion to adjourn shall not be repeated until "business has been transacted" between the two motions unless all motions were made before a vote was taken. The calling of the roll, the reception of a message from the Senate or the address of a member of the House has been held to be the transaction of business. Business must intervene before a motion can be made after one adjournment has failed.

A motion to adjourn having been voted down, two other motions were immediately made.

Mr. O'Quinn raised a point of order on the motion to adjourn on the ground that no business had intervened since another motion to adjourn had been lost and that, therefore, the motion of Mr. Brelsford to adjourn should not be entertained by the Chair.

Sustained. (29th, p. 724).

Mr. Duncan raised a point of order on the motion of Mr. O'Brien that no business had been transacted since a motion to adjourn had failed, which was sustained by the Chair. (30th, p. 320.)

Mr. Brown of Wharton moved that the House take a recess to 8 p. m. today.

Mr. Love of Williamson raised a point of order on the motion to take a recess contending that it should not be put, on the ground that no business had been transacted since a similar motion had been rejected by the House.

Sustained. (30th, p. 1163).

Held that 'Speaking is "Business."'

Mr. Jenkins resumed the floor, addressing the House on the amendments pending to House bill No. 20.

Pending the address of Mr. Jenkins, he yielding the floor,

Mr. Peeler moved that the House take a recess to 8 p. m. today, whereupon,

Mr. Meers raised a point of order on the motion to take a recess, on the ground that it should not be entertained for the reason that no business had been transacted since a similar motion had been rejected by the House.

Overruled. (30th, p. 1163).

AMENDMENTS—GENERALLY.

An amendment may be similar to one lost, yet so different that it is in order.

Mr. Morrow offered the following amendment:

"Amend by inserting in line 23, on page 1, after the word 'drawback' the following words: 'free pass.'"

Mr. Kennedy raised the point of order that the amendment was not in order, for the reason that an amendment similar in purpose had been tabled.

Overruled. (26th, p. 1190).

Mr. McFall had offered a resolution to investigate the dissolution and re-incorporation of the Waters-Pierce Oil Co., and its re-admission to do business in Texas and to fully investigate the connection of certain State officials and Congressman J. W. Bailey therewith, Mr. Hawkins offered the following amendment:

"Amend by adding to resolution: 'Resolved further, that nothing in this resolution is intended to charge that a fraud has been in fact committed by either Hon. J. W. Bailey or any of our State officers, but our purpose is rather to investigate and see if any fraud was in fact committed and, if so, by whom.'"

Mr. Seabury offered the following amendment:

"Amend by striking out of the preamble the following clause: 'Whereas, By said act of dissolution and reincorporation there was perpetrated upon the State of Texas a fraud which has brought her laws and her courts into disrepute, both at home and abroad, and shame and humiliation upon her people.' And also strike out the following words: 'and the perpetrating of said fraud.'"

Mr. McFall raised the point of order that the amendment was out of order for the reason that it is substantially the same as an amendment that had just been tabled.

The Chair overruled the point of order. (27th, p. 49).

Is an amendment covering the same matter embodied in an amendment previously tabled in order?

House was considering S. B. No. 11.

Mr. Hogsett offered an amendment to strike out Section 5.

This was tabled.

Later on Mr. Hogsett offered the following amendment:

"Amend Senate bill No. 11 by striking out in line 12, page 3, the words 'or purchase' and the words 'or sell and convey,' in line 18, and the words 'to own and,' in line 21, of said page 3, and the words 'or purchased,' in line 22, of said page 3 of said act."

Mr. Lane raised the point of order that the amendment by Mr. Hogsett was not in order for the reason that the same had been embodied in an amendment that was tabled.

The point of order was overruled. (27th, p. 220.)

Deficiency Appropriation Bill pending, Mr. Bean offered an amendment striking out all of page 10 to line 12, and further from line 12 to line 21, which was tabled.

Mr. Morrow then offered an amendment striking out lines 9, 10 and 11, page 10.

Mr. Schluter raised the point of order that the amendment was out of order, for the reason that a similar amendment had been offered and tabled.

The Chair overruled the point of order. (27th, p. 786.)

Held that the author of a bill could accept amendments without vote of the house.

House bill No. 107, by Mr. Griggs, pending, Mr. Satterwhite offered an amendment which was accepted by Mr. Griggs, the author of the bill.

Mr. Bridgers raised the point of order that the bill having been referred to a committee, and that the committee having reported the bill to the House, the bill became the property of the House, and it could not be amended except by a vote of the House.

The Speaker overruled the point of order. (27th, p. 581.)

Pending Senate Bill relating to public printing and amending the law with reference to printing the Legislative bills

Mr. O'Quinn offered the following amendment to the bill:

"Amend by adding after the word 'require,' page 5, line 10, the following: 'Provided, the provisions of this act shall in no wise affect any existing contract between the State and any contractor for public printing.'"

Mr. Napier offered the following amendment to the bill (which is the amendment recommended by the committee):

"Amend the bill by changing the figure '2' after the word 'Sec.' in line 11, page 5, to '3,' and insert Section '2' between lines 10 and 11, page 5, said section to read as follows:

"Sec. 2. That the State shall not be chargeable under the present contract with any excess pages in any bill by reason of the changed methods of printing provided for by this act."

Mr. O'Quinn raised a point of order on consideration of the amendment by Mr. Napier, stating that it was not in order until the amendment by himself should be disposed of.

The Speaker held that the amendment by Mr. Napier was in order, and that under the rules it should take precedence of other amendments not recommended by the committee to which the bill was referred. (28th p. 212).

Mr. Hedges raised a point of order on consideration of an amendment by Mr. Connally, stating that it sought to strike out matter that had

already been inserted in the bill by amendments.

The Speaker overruled the point of order, stating that though, in theory, the point of order may be correct, he would leave it for the House to pass on. (28th, p. 804.)

A county may be exempted from a general bill.

The House was considering a bill relating to the control of Johnson grass, when Mr. Brelsford moved to exempt Eastland County from the list.

Mr. Duff raised a point of order on consideration of amendments exempting certain counties from the provisions of the bill on the ground that the bill was general in its application.

The point of order was overruled. (28th, p. 961).

Mr. Calvin offered a substitute for a pending resolution. (See p. 5-26 called session).

The amendment provided, (1) That not exceeding five clerks, one of whom shall be the Speaker's private secretary, and, (2) Six pages, one of whom shall be the Speaker's page.

Mr. Cobbs raised a point of order on consideration of the pending substitute, stating that it is the same in substance as the original resolution by Mr. Calvin, which had already been substituted and therefore should not be entertained.

Overruled. (28th, called p. 17).

Can an amendment be considered when it covers matter previously passed upon?

The House was considering House bill No. 3 in reference to the retirement of certain State bonds. It had voted down an amendment striking out the words, "Shall become due and payable forty years from their date, but the State shall reserve an option of redeeming them at any time after five years from their date," and proposing to insert in lieu thereof the following: "Shall become due and payable twenty years from their date."

Mr. Seabury offered the following amendment to the bill, "Amend by striking out the words, 'Forty years,' and inserting the words, 'Twenty years', wherever they occur in the bill".

Mr. Boyd raised a point of order on consideration of the amendment,

stating that it covers a matter already passed upon in a preceding amendment, and should therefore not be entertained.

The point of order was overruled. (28th, called, p. 30.)

Can existing law be changed in an appropriation bill?

Mr. Bryant offered an amendment striking out certain portions of the Appropriation bill, which provided for the support and maintenance and running of the Penitentiary system each year, providing that all proceeds and revenues of said system be carried into the Treasury, of the sum of \$400,000 for each year.

Mr. Weinert proposed to strike out \$400,000 and insert \$700,000.

Mr. Pickett raised a point of order on consideration of the pending amendments, stating that the effect, if adopted, would be to change existing law, which could not be done in an appropriation bill.

The point of order was overruled by the Speaker, who stated that, though there might be merit in the point raised, he preferred leaving it to the House to pass upon. (28th, called, p. 144).

(Note.—The Speaker evaded the question, shifting it to the House. —Editor.)

An amendment lost on a second reading of a bill is in order on a third reading.

An amendment which had been voted down on the second reading of a bill was offered while the bill was on the third reading.

Mr. O'Quinn raised a point of order on consideration of the amendment, stating that it should not be entertained for the reason that the same proposition had been submitted, voted on and lost on the second reading of the bill.

The Chair overruled the point of order, stating that as this is a different stage in the progress of the bill, the amendment was in order. (28th, p. 151.)

Mr. Silliman offered the following amendment to the bill:

"Amend by striking out, beginning in line 4, the following, 'and every contract must be awarded to a citizen or taxpayer of the county in which the contract is let'".

Mr. Kennedy then raised the point of order on consideration of the

amendment on the ground that an amendment embodying the same substance was tabled yesterday.

The point of order was overruled. (30th, p. 300.) (The Journal shows that the amendment was in fact different to the one tabled.—Editor.)

Because the House has adopted an amendment is no reason why it should not consider another one embodying the same matter.

Mr. Love of Williamson offered the following amendment to the bill:

"Amend line 4, page 2, after the word 'equal,' the following, 'every citizen or taxpayer in the county in which the contract is let, with all things equal, price, quality, work, etc., shall have preference in letting of the contract'".

Mr. Hamilton raised a point of order on consideration of the amendment on the ground that another amendment embracing the same had been adopted.

Overruled. (30th, p. 301.)

Mr. Hamilton offered the following substitute for an amendment:

"Amend by inserting at the end of the bill the following: 'And provided, that if the conditions of the person or persons, adopting such child shall change after such adoption so that the interests of such child demand that a change be made in its custody or if in the opinion of the court or jury trying the same the person or persons so adopting are not proper persons, the court shall have the right to award such child to some suitable person, persons, or society as the interests of the child may demand.'"

Mr. Duncan raised the point of order on consideration of the substitute on the ground that it is not germane and for the further reason that an amendment containing the same substance had been adopted. (The record does not sustain Mr. Duncan's point of order.—Editor.)

The point of order was overruled. (30th, p. 303.)

An amendment is not in order if one of the same subject-matter has just been tabled.

Mr. Duncan raised a point of order on consideration of an amendment on the ground that an amendment covering the same subject matter had just been tabled.

The Chair sustained the point of order. (30th, p. 457.)

Mr. Love of Dallas offered an amendment to a bill regulating the sale of whiskey, placing the tax for saloons at \$600, if situated within a county having a population of 80,000.

Mr. Onion raised a point of order on consideration of the substitute on the ground that the House had already rejected amendments of a similar nature and thereby had decisively indicated that it would not adopt the proposition contained therein.

The Chair overruled the point of order. (Note.—The amendment referred to by Mr. Onion applied to towns and cities and not counties.—Editor.) (30th, p. 774.)

Pending an amendment striking out line 40, page 85, of Appropriation bill, providing for scholarships.

Mr. Mears raised a point of order on consideration of the amendment on the ground that a similar amendment to another department had been rejected by the House.

The Chair overruled the point of order. (30th, p. 1341.)

To Senate bill No. 24, to compel telephone and telegraph companies to assure connection or transfer of message with companies doing a like business, Mr. Ray had offered an amendment which was in fact a new bill. It was rejected.

Mr. Dean then offered the following:

"Sec. 2. All companies, individuals, firms or corporations doing a telephone business in this State shall be compelled to make physical connections between their toll line at common points for the transmission of messages or conversations from one line to another. Such connection to be made through the switchboard of such individuals, companies, firms or corporations, if any is maintained at such points, so that persons so desiring may converse from points on one of such lines to points on another".

Mr. Onion raised a point of order on consideration of the amendment on the ground that the subject matter of the amendment is contained in the amendment by Mr. Ray, which the House has just rejected, and that, therefore, the amendment should not be entertained.

The Chair held the point of order not well taken. (30th, called, p. 238.)

Senate bill No. 24. To require telephone and telegraph companies to arrange for connections or transfer message with other telephone or telegraph lines doing a like business pending, Mr. Ray offered the following amendment:

"Sec. 1. All telephone companies or persons, firms, corporations or associations of persons, which are now or which shall hereafter be engaged in the business of accepting and transmitting long distance messages or conversations to and from different points in this State where the use of a telephone instrument or instruments is necessary in the conduct of such business, shall, if there be any other person, firm, corporation or association engaged in the telephone business at the same point or in same city, town or village, provide means whereby all messages or communications conveyed to such point over the lines of any such company may be transferred to the lines of either or all other such companies engaged in such business at such common point and transmitted to their final destination without the intervention of a personal repetition of such measure by an operator or employe either orally, in writing or in any other manner, and such physical and mechanical facilities shall be provided as will guarantee the transfer of such messages in compliance with the provisions of this act; provided, that in no case shall any message, conversation or other communication be transferred from one line to another against the will of the company first handling same when it is possible for such company to deliver said message direct to the party for whom it is intended via the line or lines operated and owned by said company."

Mr. Onion raised a point of order on consideration of the amendment on the grounds that it contains matter embraced in the amendment by Mr. Ray already rejected by the House, and that, therefore, it should not be entertained.

The Chair held the point of order not well taken. (30th called, p. 240.)

Mr. Cox raised a point of order on consideration of amendment on

the ground that the bill had not been read second time.

Overruled. (31st, p. 440.)

(Note.—This point of order was overruled because the Journal showed that the bill had been read the second time.—Editor.)

Mr. Cox raised a point of order on consideration of the amendments on the ground that the bill had not been read second time.

The Speaker overruled the point of order. (31st, p. 443.)

(Note.—The same reason assigned page 440 applies here.—Editor.)

Mr. Cox raised a point of order, stating that the amendments to the bill were not properly adopted, for the reason that the bill had not been read second time.

Overruled. (31st, p. 446.)

(Note.—Same as p. 440.—Editor.)

Because an amendment was ruled out of order at a certain stage of the proceedings is no reason why it might not be in order at another time.

Mr. Jennings' substitute was not germane to Ray's amendment to bank bill, but was germane to the original bill.

Mr. Ray raised a point of order on consideration of the amendment on the ground that the amendment is not in order, for the reason that the subject matter thereof had already been before the House one time in the form of an amendment and killed by the ruling of the Chair.

The Speaker overruled the point of order. (31st, p. 555.)

Though an amendment should be voted down it would be in order on a subsequent reading of the bill

Mr. Fuller raised a point of order on consideration of an amendment on the ground that the house had already rejected the subject matter of the amendment.

The Speaker overruled the point of order. (31st, p. 834.)

(Note.—This amendment had been offered at a former reading of the bill.—Editor.)

Mr. Lee proposed an amendment to line 27 of House bill No. 367.

Mr. Stephenson raised a point of order on consideration of the amendment on the ground that an amendment containing the same subject

matter had been rejected by the House.

Overruled. (31st, p. 883.)

AMENDMENTS—GERMANE.

To a bill establishing a State Normal at Denton an amendment was offered establishing another Normal at San Marcos.

(Mr. Murray in the chair.)

Mr. Thompson of Fannin raised the point of order that the amendment is not germane to the bill for the reason that the bill provides for the "establishment, maintenance, and government of a State normal school," while the amendment provides for the acceptance of a grant of land.

Overruled. (26th, p. 834.)

(Note.—This ruling was clearly wrong.—Editor.)

Senate bill No. 293, to define and punish unjust discrimination by officers, etc., of railroad companies, the purpose being to prohibit freight rebates.

Mr. Terrell offered an amendment prohibiting the giving of any officers by railroad company any free pass.

Mr. Shropshire raised the point of order that the amendment was not germane to the purpose of the bill, and for that reason was not in order as an amendment to this bill.

Overruled. (26th, p. 1190.)

The house was considering a bill to prohibit the playing of cards at any houses retailing spirituous liquors, store house, tavern, inn, or other public house, or in any street, highway, or other public place, or in any outhouse where people resort.

Mr. Stollenwreck offered to amend by adding, "or at any place except a private residence."

Mr. Moore offered this substitute:

"Add to Article 379—'Provided this article shall not be construed to prohibit games played for pleasure by the family and invited guests.'"

Mr. Grisham raised the point of order that that substitute was not germane and therefore out of order, which was overruled by the Speaker. (27th, p. 100.)

(Note.—Stollenwreck sought by implication to exempt houses occupied by a family while the

Moore substitute expressly did so. It left nothing to implication.—Editor.)

This resolution was pending, "Resolved that Gov. J. S. Hogg be invited to use Representative hall for the delivery of such (an) address on next Tuesday night, or on any earlier night that he shall indicate".

By Mr. Garner, amend by striking out, "Use Representative hall" and insert, "Address the joint committees of the House and Senate on Constitutional amendments".

The resolution inviting Gov. Hogg to speak, with amendments, still pending.

Mr. McFall raised a point of order on the Garner amendment that it was not germane to the original resolution, and should not be considered in connection with it.

The Chair did not sustain the point of order, a motion to table pending. (27th, p. 302.)

Mr. McFall raised the point of order on the Garner amendment that it was not germane to the resolution, and should not be considered, since the object sought in the resolution was to tender the use of this hall to Hon. J. S. Hogg for the delivery of his address next Tuesday night, which has been advertised to be delivered in the opera house; and further, that the House had no jurisdiction in the matter of inviting any one to address a committee.

The Chair overruled the point of order and said:

"The rules of the House have no provision whereby the order of procedure before a committee can be dictated by the House. The committee, therefore, is a 'law unto itself', and has the sole right of regulating its procedure.

"However, the Chair having been officially informed that the House committee has itself extended the invitation contemplated by the Garner amendment the Chair holds that the said amendment is merely seeking ratification on the part of the House of the action of the committee, and therefore permissible.

"The original resolution merely provided for a change of place from the opera house to this hall for the delivery of the speech. The Garner resolution changes the place from

this hall to the committee room, and in itself is germane. Even though germane, the Garner resolution would be ruled out as overriding the rights of the committee, if the committee had not already extended the invitation, but having extended the invitation, the House may ratify the acts of the committee. Point of order overruled." (27th, p. 303.)

House bill No. 262, amending Statute governing the formation of private corporations so as to authorize the organization of fruit and vegetable companies.

Mr. Bridgers offered an amendment:

"For the organization of exchanges with authority to deal in the stock of mining companies, oil companies and cattle companies, and with power to provide and maintain suitable rooms for the conduct of their business, and to establish and maintain uniformity in commercial usages of cities and towns; to acquire, preserve and disseminate valuable business information, and to adopt rules, regulations and standards of classifications which shall govern all transactions of trade in such stocks and business, and with other commodities where standards and classifications are required, and generally to promote the interest of trade in mines, minerals and cattle, and to promote and facilitate commercial transactions in such business."

Mr. Terrell of Cherokee raised the point of order that the amendment was not germane to the bill.

The point of order was overruled. (27th, p. 784.)

An election bill had been amended so that it fully covered the printing of the official ballots and providing, "that said commissioners court shall cause to be placed in the hands of the presiding officers of elections of each voting precinct within the county two days prior to the date of election at which they are to be used, such number of ballots as may be required by the voters of said precinct."

Mr. Beaty offered the following amendment:

"Amend the bill as amended by adding to end of line 17, page 2. Section 1:

"That tickets so printed shall be placed in an envelope and sealed up

and delivered by the printer to the sheriff, taking his receipt for same. The sheriff shall deliver the tickets to the presiding officer of the election who shall not open the envelope until the election board is organized, then, in the presence of the board, open the envelope and spread the tickets out and not allow any voter to have more than one ticket and to get that ticket at the voting place; provided, that if a ticket is spoiled the voter can return it and get another one. There shall be a place on the envelope for sheriff's return, which he shall fill out as in all other processes, and the services herein provided for shall be required of the sheriffs in this State as a part of their ex officio services'."

Mr. Thurmond raised the point of order that the Beaty amendment was not germane to the amended bill.

The point of order was overruled. (27th, p. 807.)

The Galveston Charter bill was pending. Mr. Lane offered by way of an amendment a new bill. The original bill provided for the appointment by the Governor of a board of Commissioners to govern the City, while the Lane amendment (substitute) provided a City Council to be composed of a Mayor and one Alderman from each ward; these to be elected by the people of the city.

Mr. Bridgers raised the point of order that the Lane substitute was not germane to the original bill.

Overruley by the Chair. (27th p. 835).

An amendment changing a bill prohibiting the manufacture or sale of adulterated cigarettes so that it would prohibit the sale of any manufactured cigarettes whether adulterated or not was held to be germane. (27th, p. 1216.)

Mr. Napier offered a resolution requesting the heads of all State departments and all State institutions to furnish to the House, under oath, a statement showing the number of employes of said department or institution who were related to the chief or head of said department or institution; amount of salary received by such clerks; and also similar information as to employes who were related in the same manner

to the heads of other departments or State institutions.

An amendment was offered so as to include members of the Legislature. It was held that this amendment was germane and in order. (28th, p. 550.)

House was considering bill to prohibit the granting of free passes by railroads.

Mr. Shannon offered the following amendment:

"Provided further, that after the passage of this act it shall be unlawful for any railway company in Texas to give any pass or free transportation of any kind or nature to any person whomsoever, except bona fide employes of said railways or for the accomplishment of any strictly charitable purpose, and any violation of the provisions of this act shall annul the charters under which said railway companies do business in this State; and the railway companies doing business in this State shall report annually to the Railroad Commission, under oath, the free transportation issued and to whom issued during the preceding year. Any failure of any railway company doing business in Texas to make such report shall be grounds for forfeiture of the charters of such railway companies on suit brought by the Attorney General or any district attorney or county attorney in this State."

Mr. Witcher offered the following amendment to the amendment:

"Amend the amendment by adding: 'Provided, that it shall not prohibit any farmer shipping produce or any stockman shipping stock over any roads from having free transportation.'"

Mr. Shannon raised a point of order on consideration of the amendment, stating that it is not germane to the amendment.

Point of order was overruled (28th, p. 785.)

Mr. Terrell offered a resolution providing that on roll call and convening of each session, the clerk be directed to call the roll of all employes and that no employe should be allowed pay when absent, unless excused by the Speaker.

Mr. Bridgers offered the following resolution:

"Resolved, that the committee clerks and pages shall hereafter perform such services as may be required of them by the Speaker or the Chief Clerk, and it shall be the duty of the Chief Clerk to assign to the several clerks such duties as will equally, or as near as may be, divide the work of the House; and it shall be the duty of the Chief Clerk to have all clerks and pages present in the House each day from 8:30 a. m. to 12 m. and from 1:30 p. m. to 5 p. m. and at such other times as the House may be in session, or as the Chief Clerk or the Speaker may deem proper.

"Resolved further, that no committee clerk or page shall be absent from the House during any day unless duly excused by the Speaker or Chief Clerk, such excuse to be noted in the record."

Mr. Terrell of McLennan raised a point of order on consideration of the substitute, stating that it is not germane for the reason that the resolution provides for a roll call of employes, and that the substitute makes no mention of a roll call.

Overruled. (28th, called, p. 20.)

To a bill regulating the control of dependent and neglected children an amendment, the effect of which was to keep such children from within 200 feet of a horse race, was held germane. (29th, p. 255.)

To a bill authorizing city councils to regulate the charges of water, light and gas companies, an amendment amplifying the report required of such companies was held germane, it being necessary for the council to have the fullest information to determine the proper rate. (29th, p. 278.)

To a bill prohibiting roping contests, an amendment was offered making it an offense for any person to enter the enclosed lands or range of another and rope any stock without the consent of the owner.

Mr. McKinney raised a point of order on consideration of the amendment on the ground that it is not germane to the bill.

Overruled. (29th, p. 342.)

(Note.—This ruling was certainly an oversight on the part of the Chair, for it is plain that the

amendment is not within the provisions of the bill as expressed in its title.—Editor.)

To a bill taxing the receipts of the sleeping car companies, Messrs. Onion and Peeler offered an amendment fixing the tax at five per cent on all companies which charged more than \$1.50 for an upper berth for any one night.

Mr. Cobbs raised a point of order on consideration of the amendment on the ground that the House had killed a bill carrying the same proposition and that now to inject the same matter into another bill in the shape of an amendment is in conflict with Article III, Section 34, of the Constitution of the State of Texas.

Overruled. (29th, p. 709.)

(Note.—Mr. Cobbs was mistaken. The bill he had in mind was a bill to fix the charges of the sleeping car companies and not to tax them.—Editor.)

The T. & N. O. consolidation bill pending, Mr Mays offered an amendment requiring the T. & N. O. R. R. Co., to cancel its stocks, bonds and other liabilities, before the bill could take effect.

Mr. Brown of Kaufman raised a point of order on consideration of the amendment on the ground that it is not germane. (29th, p. 724.)

Overruled.

(Note.—This amendment was properly germane because it referred alone to the T. & N. O. R. R. Co.—Editor.)

While considering the Terrell election bill, Mr. Murray of Wilson moved to strike out that portion which prohibited the payment of poll taxes by anyone actively espousing the cause of any candidate for office. Mr. Winter offered this substitute for the amendment: "No person shall pay the poll tax of any other person, nor act as the agent for any person in paying any poll tax".

Mr. Brelsford raised a point of order on consideration of the substitute on the ground that it is not germane to the amendment.

Overruled. (29th, p. 743.)

To an act to provide for the creation of a Forestry Commission and to make an appropriation for carrying out the purposes of the act.

Mr. Murray offered an amendment making an appropriation of

two thousand dollars for the fiscal year, 1906-07.

Mr. Hamilton raised a point of order on consideration of the substitute on the ground that it is not germane.

Overruled. (29th, p. 802.)

To an act which sought to repeal the occupation tax levied upon persons engaged in the sale of city, State or county warrants, Mr. Bowser offered an amendment repealing the occupation tax levied upon merchants, brokers, bankers and several other occupations.

Mr. Holmes raised a point of order on the consideration of the amendment by Mr. Bowser on the ground that it is not germane and that it changes the purpose of the bill.

Overruled. (29th, p. 862.)

The election bill was pending when Mr. Kennedy proposed an amendment to change primary election day from June to July. Mr. Blanton offered a substitute which was an entire new bill.

Mr. Heslip raised a point of order on consideration of the substitute on the ground that it is not germane to the amendment.

The Chair (Robertson of Bell) overruled the point. (29th, p. 986.)

To a bill making an appropriation for the deficiency in the appropriations heretofore made for the support of the government for the fiscal years 1904-05, and to make additional appropriations for the support of the State government for the year ending August 31, 1905, Mr. Bryan offered to amend the bill by adding thereto the following:

"For the purchase of machinery for the equipment of the laundry at the Epileptic Colony, \$2972."

Mr. Dean raised a point of order on consideration of the amendment on the ground that it seeks to make an appropriation and that the bill under consideration merely seeks to provide for deficiencies. Overruled. (29th, called, p. 89.)

(Note.—It will be seen that the bill made additional appropriations for 1905.—Editor.)

Mr. Love of Williamson moved to amend the Bryan amendment by providing that Senator Bailey be permitted to examine the original papers and documents in the possession of the Attorney General.

Mr. Duncan raised a point of order on consideration of the amendment by Mr. Love of Williamson, and stated that the House could not go beyond securing information for itself, and that the amendment is not germane.

The Speaker overruled the point of order. (30th, p. 133.)

Mr. Duncan moved that the roll of the House be called and that each member of the House be allowed to approach the Clerk's desk and examine the documents presented by Attorney General Davidson as his name is called until the roll call should be concluded.

Mr. Pool moved as a substitute for the above motion that the Speaker be authorized to appoint a committee of seven members of the House to compare the copies of certain documents presented by Attorney General Davidson with the originals in his possession.

Mr. Kennedy raised a point of order on consideration of the Pool substitute, stating that it should not be entertained by the Chair for the reason that it contravenes the object and purpose of the original resolution.

The Speaker held the point of order not well taken. (30th, p. 133.)

Mr. Bryan moved to amend the Pool substitute by providing that Senator Bailey be invited to be present when the committee makes the examination, and that he be allowed to file his answer thereto.

Mr. McGregor raised a point of order on consideration of the Bryan amendment on the ground that it was not germane.

The Speaker overruled the point of order. (30th, p. 132 and 133.)

(Note.—The ruling as to the Kennedy point of order was clearly wrong, because the object and purpose of the Duncan motion was that each member for himself should personally inspect the documents. The Pool substitute provided for a committee to do the work.—Editor.)

Mr. Cobbs offered a resolution inviting Senator Bailey to appear before the House and be given an opportunity to make any statement he might desire to with reference to the vouchers and documents and that the Attorney General be requested to have the originals at the

bar of the House that Senator Bailey might inspect them while making said statements.

Mr. Duncan offered this amendment:

"Provided, Senator Bailey will in connection with such explanation ask this House to make a fair, thorough and unlimited investigation by its committee of all the facts connected with his conduct while Representative and Senator.

Mr. Cobbs raised a point of order on consideration of the Duncan amendment on the ground that it is not germane to the resolution.

The Chair held the point of order not well taken. (30th, p. 137.)

To a bill amending the law in reference to the fees of officials charged by certain State officers.

Amendments were offered which but elaborated the purposes of the bill and were plainly germane. And the Chair so ruled, when the point of order was made. (30th, p. 1206.)

To amend the so-called Terrell Election Law, relating to general, special and primary elections and political conventions, and also to amend section 120 of said act, as amended by the Second Called Session of the 29th Legislature, Mr. Canales offered an amendment. This amendment added Section 4 to the bill, amending section 116 of the General Laws of the State, which the bill sought to amend. The addition to Section 116 provided that no platform demand requiring the Legislature to pass any law on any subject should be incorporated in the platform of any political party, unless the same was submitted to the people by said party on primary election day and had received a majority of the votes cast on said day by said party, and provided the manner of its submission.

Mr. Dean raised a point of order on the consideration of the amendment, on the ground that it is not germane to the purpose of the bill.

Overruled. (30th, p. 1221.)

By an amendment to the Appropriation Bill, it was sought to make an appropriation for two experimental stations not then established.

Mr. O'Neal raised a point of order on consideration of the amendment, stating that it is not germane for the reason it seeks to make an appropriation for an institution not

in existence, and that said institution must be created by a separate statute.

Overruled. (30th, p. 1344.)

AMENDMENTS—HELD GERMANE.

Mr. Robertson of Travis offered an amendment to a bill, laying a gross receipt tax upon certain corporations, among them were insurance companies. This amendment is fully explained in the point of order which follows.

Mr. Kennedy raised a point of order on further consideration of the third division of the amendment by Mr. Robertson of Travis and said:

"Mr. Speaker: In the third amendment offered by the gentleman from Travis appears this language:

"And such life insurance company shall constitute and appoint the said Commissioner of Insurance of this State its duly authorized agent and attorney in fact for the purpose of accepting service for it or being served with citation in any suit brought against it in any court of this State in like manner as is provided by law for companies engaged in doing every character of insurance business in this State."

"I make the point of order that this is not germane to the bill, in that this bill is for taxation purposes only, and this provision of his amendment, while ostensibly it is for the purpose of enabling the State to collect the taxes, it is in fact for the purpose of giving any citizen in this State the right to bring suit in any court of this State against insurance companies and arbitrarily designating the Commissioner of Insurance the authorized agent of any company, for the purpose of being served with citation in any such suit. This clearly attempts to add to the bill more than one subject. It is in effect an attempt to attach on a taxation measure a measure designating the manner in which suits may be brought, and if left in this bill will violate that part of the Constitution that declares that only appropriation bills may have more than one subject.

"If this provision only applied to suits brought by the State in an effort to collect the taxes that might become due under this amendment,

there could be, in my opinion, no objection."

Overruled. (30th, called, p. 96.)

Mr. Cobbs proposed to amend Senate bill No. 31 by striking out the latter part of Section 1. Mr. Wolfe offered as a substitute, "And it shall not be permissible to again call the legality of such election in question in any other suit or proceeding."

Mr. Cobbs raised a point of order on consideration of the substitute on the ground that it is not germane to the amendment.

Overruled. (30th, called, p. 177.)

Amendments to correct the verbiage or to perfect the bill are germane and should be considered.

An amendment to correct the verbiage of a bill was pending.

Mr. McConnell raised a point of order on consideration of the substitute on the ground that it does not change the bill, but simply changes the verbiage in some respects.

Overruled. (30th, called, p. 177.)

To a bill regulating the sale of certain public lands, Mr. Jenkins offered the following amendment:

"Amend page 3, Section 6b, by striking out all of said section after the word 'Commissioner,' in line 30, and insert in lieu thereof the following: 'And not until after sixty days from the date that said Commissioner shall have mailed to the county clerk of the proper county notice that such sale has been cancelled, and that he has reappraised said land and the timber thereon, if any, and the price at which the same has been reappraised.'"

Mr. Silliman offered the following substitute for the amendment:

"Amend the bill, page 3, Section 6b, by striking out the following, beginning with the word, 'such,' in line 26, all the remainder of said section 6b, and insert in lieu thereof the following: "If any purchaser or assignee of any land situated in the counties included in this section shall fail to reside upon and improve in good faith, as required by law, the land purchased by him, if bought on condition of settlement, he shall forfeit said land and all payments made thereon to the State to the same extent as for the non-payment of interest, and such lands shall be again upon the market as if no such sale and forfeiture had occurred, and all such forfeitures shall have

the effect of placing the land upon the market without any action on the part of the Commissioner of the General Land Office at the price at which said land was last sold by the State."

Mr. Jenkins raised a point of order on consideration of the substitute on the ground that it is not germane to the amendment.

The Chair held the point of order not well taken. (30th called, p. 182.)

To bill creating Falfurias county an amendment was offered which materially changed the boundaries.

Mr. Fuller raised a point of order on consideration of the substitute on the ground that it is not germane to the purpose of the bill.

The Chair (Mr. O'Bryan) overruled the point of order. (31st, p. 492.)

Bill making it discretionary with the Judges of District and County Courts to dispense with or employ County Auditors, pending, Mr. Davis offered this amendment:

"The commissioners' court of any county shall, upon petition of 25 per cent of the qualified voters of said county, order an election to determine whether or not there shall be appointed a county auditor for said county, or whether the office of county auditor shall be abolished."

Mr. German raised a point of order that laws in this State can only be made by the Legislature, and it has no power to delegate to any board or other department of the government the power to annul laws enacted by it.

The Speaker overruled the point of order. (31st, p. 505.)

To a bill compelling insurance companies to invest a certain part of their reserve fund in the State, Mr. Wortham offered an amendment regulating the payment of gross receipt taxes by such companies.

Mr. Robertson of Travis raised a point of order on the ground that the amendment is not germane to the bill for the reason that the original bill requires the investment of 75 per cent of the Texas reserve in Texas securities, while the amendment has for its purpose to leave it optional with life insurance companies to either make the investment or pay a larger gross receipt tax; therefore, it is not germane to the original bill.

The Chair held the point of order not well taken, stating that the amendment, as proposed by the gentleman from Tarrant (Mr. Wortham) does not change the purpose of the bill, to-wit, compelling insurance companies to invest in the State. (31st, p. 588.)

Insurance bill pending:

Mr. Vaughan raised a point of order on the amendment offered by the gentleman from Tarrant (Mr. Wortham) on the ground that one section of the original bill provided that life insurance companies shall invest at least 75 per cent of their Texas reserve in Texas securities, and the other section provides for a tax. This amendment seeks to amend that section of it with reference to the tax which makes it optional with the companies in reference to the 75 per cent tax.

The Chair held the point of order not well taken for the reason that the amendment proposed by the gentleman from Tarrant (Mr. Wortham) does not change the purposes of the bill, to-wit, compelling life insurance companies to invest in this State. (31st, p. 589.)

AMENDMENTS—NOT GERMANE.

Mr. Thomas of Fannin raised a point of order and said:

"That the resolution of Mr. Evans of Grayson provided that 1,200 copies of the House Journal be published, and eight be given to each member daily. Mr. Vaughan moved to amend by inserting '25 copies to each member.' The resolution as amended would provide that 1200 copies be printed and 25 be given to each member. That would be impossible and meaningless, and therefore out of order."

Sustained. (26th, p. 35.)

The House bill No. 57, the purpose of which was to require the officials of banks to make certain statements to tax assessors or their deputies, Mr. Lillard had offered an amendment. To this amendment Mr. Frost offered a substitute, which, instead of requiring the bank officials to give the required information, provided that the banks should render for taxes and pay taxes there-

on in bulk all moneys on deposit in their banks on the first day of January each year and prorate and charge the same to each depositor's account and providing that should any depositor withdraw his deposits before the tax rate for any year shall have been ascertained, the bank had the right to retain in its possession to secure said tax, five per cent of said deposit, etc.

Mr. Schluter raised the point of order that the substitute offered by Mr. Frost is not germane to the purpose of the original bill, because the original bill is simply amendatory of Chapter 112, of the Acts of the Twenty-fifth Legislature, which only provides a penalty for the failure or refusal of bank officials to furnish to the assessor of taxes a statement, showing such facts as would enable the assessor to properly assess certain character of property; and the bill under consideration likewise only contemplates and provides for a like penalty for like failure of such bank officials to make such statement to the assessor of taxes, and does not attempt to regulate in any manner the mode of rendering property for taxation, which is clearly the sole purpose of the substitute.

The Speaker did not sustain the point of order raised by Mr. Schluter, and stated that the members, having the printed bill before them, were in a better position to determine the consistency of an amendment than the Chair, and stated furthermore that it would be dangerous to lodge such power in the Chair.

On motion of Mr. Kennedy the substitute by Mr. Frost was tabled.

Thus the House sustained the point of order made by Mr. Schluter. (26th, p. 374.)

Parts of bills which have been stricken out by amendments can not be reinserted by amendment.

Mr. Henderson of Lamar raised the point of order that the amendment was not in order, for the reason that it sought, in a round about way, to insert in the bill something which had already been stricken out.

Sustained. (26th, p. 663.)

To a House bill providing the mode by which horses, mules, cat-

tle, etc., may be prevented from running at large in the counties of Cooke, Bell, Ellis, etc., or in any subdivision of said counties, Mr. Lillard offered an amendment: The substance of which was that when any county shall have adopted the stock law provided by the act, all land which borders on such counties which have not adopted the General Stock law shall be enclosed by the owner, if not already enclosed, by a good substantial fence. At or near the county line in all roads on lanes leading into a General Stock law county there shall be erected by the Commissioners' Court, substantial gates with fastening for securing same when closed. Every owner of land bordering on a county line of a county which had adopted the Stock law, refusing or neglecting to enclose his land as aforesaid was to be deemed guilty of a misdemeanor and subject to a penalty of \$5. Each week of such refusal to constitute a separate offense. The Commissioners Court of each county adopting the General Stock law was required to have placed in conspicuous position on or near each public gate, a substantial sign board not less than three feet long and eighteen inches wide, which sign board should have painted on each side, "General Stock Law County. Five Dollar fine to leave this gate open." It was further provided that the wilful leaving of any public gate open or the wilful neglect to close and latch such gate or the knocking down or defacing of any such Stock Law sign board was a misdemeanor and punishable by a fine of not more than five dollars.

Mr. Powell raised the point of order on the amendment by Mr. Lillard that it is not in order, for the reason that it is not germane to the bill, as the bill is drawn under Article 16, Section 23, of the Constitution, when the amendment is in regard to fences, as provided in Section 22 of said article. And further because the effect of such amendment would be obstructing public highways.

Sustained. (26th, p. 790.)

The House was considering the Comptroller's Department of the appropriation bill. Mr. Childers offered an amendment to reduce a \$1350 item to \$1000.

Mr. Decker offered a substitute, viz: "That H. B. No. 111 be adopted down to line 28, page 32, provided the appropriation to the State University may be amended or added to."

(Mr. Smith of Grayson in the chair.)

Mr. Jones raised the point of order that the substitute by Mr. Decker was not germane to the item under consideration, and therefore not in order at this time.

Sustained. (26th, p. 1028.)

Mr. Caldwell offered the following amendment to the General Appropriation bill:

"Amend by adding between lines 20 and 21, page 8, the following 'For salary due bailiff of Supreme Court for 1895, \$100; for the year 1896, \$100; for the year 1897, \$150; for the year 1898, \$150; total, \$500. Of this amount \$250 to be applied for the relief of M. M. Johnson, bailiff, and \$250 for the relief of L. K. Smoot, bailiff.'"

Mr. Lane raised the point of order that the above amendment is not germane to this bill, but properly belongs in a general deficiency bill, and, therefore, should not be considered.

The Chair (Mr. Smith of Grayson) sustained the point of order. (26th, p. 1097.)

An amendment to the Appropriation bill, providing for the purchase of a portrait of Gov. Culberson.

Mr. Terrell offered an amendment to strike out the word "Culberson" and insert "Santa Anna."

Mr. Shelburne raised the point of order that the substitute by Mr. Terrell was not germane to the amendment.

The point of order was sustained and the amendment ruled out of order. (26th, p. 1245.)

To a bill creating a State Industrial School, Mr. Terrell of Cherokee offered an amendment providing that instead of the State Industrial School that the Normal Schools "provide courses of study in the industrial arts especially for girls."

Mr. Lively raised the point of order that the amendment is not germane to the bill under consideration, and should not be entertained.

The Speaker sustained the point of order. (27th, p. 715.)

To a bill to aid the City of Galveston in elevating and raising said city so as to protect it from overflows by donating and granting certain taxes to it for a certain period of years, Mr. Parish offered the following amendment:

"Add after the word 'Galveston' the following: 'And the counties of Brazoria, Fort Bend, Waller, Austin, Washington, Grimes, Burleson, Brazos, Milam, and Robertson in elevating, leveeing and raising said city and the banks of the Brazos river in said counties'; and on page 4, line 10, after the word 'Texas,' as follows: 'All of the provisions of this bill as to collecting and application of taxes collected, shall apply also to the counties of Brazoria, Ft. Bend, Waller, Austin, Washington, Grimes, Burleson, Brazos, Milam and Robertson to enable them to levee the banks of the Brazos river in places where it overflows and to build roads and bridges.'"

Mr. Seabury raised the point of order that the amendment offered by Mr. Parish and others was not germane to the bill under consideration for the reason that while the bill proposed provided for the return of certain taxes to the city of Galveston to be used for the redemption of bonds to be issued by that city for raising the grade of parts of the city and protecting it from calamitous overflows, amendment provided for the return of taxes to certain other counties along the Brazos river to be used in constructing levees along that river and building roads and bridges. The objects sought to be accomplished are essentially different, but that if they were the same, a bill to relieve one city or county could not be amended so as to relieve another city or county.

Under the point of order raised the amendment was held not germane, but the Chair assigned other reasons therefor than those contained above. (27th, p. 1123.)

Mr. Isaacks offered a resolution inviting ex-Governor Hogg to address the members of the House in the Hall at a future date.

Mr. Johnson offered an amendment adding, "And also any other gentlemen who may desire to speak."

Mr. Timon proposed a substitute for the amendment "Amend by adding after the word 'Hogg,' the name of Col. Travis Henderson."

Mr. Hancock raised a point of order on consideration of the amendment to the amendment, stating that it is not germane to the amendment it proposes to amend.

The point of order was sustained. (28th, p. 643.)

To Senate bill authorizing the Chicago, Rock Island and Pacific Railway Company to purchase, own and operate as a part of its line, the railroad of the Chicago, Rock Island and Texas Railway Company, Mr. Fowler offered an amendment,

"Amend by adding to Section 6 the following: 'Provided, that the acceptance of the provisions of this act is an agreement on the part of the said railroad company to abide by and submit to the rates, rules, regulations and requirements of the Railroad Commission of Texas, until the same are set aside by a court of competent jurisdiction on final trial.'"

Mr. Shannon offered as an amendment to the amendment making it unlawful for said railway company to give away any free transportation to any person, excepting bona fide employes, requiring the railroad company to report annually under oath to whom free transportation, if any, was issued and making a failure to make such report grounds for the forfeiture of the charter.

Mr. Harris raised a point of order on its consideration, stating that the proposed amendment was not germane to the amendment which it proposed to amend. This point of order was sustained, whereupon Mr. Shannon then offered an amendment as a substitute for the amendment and Mr. Harris again made the point of order that it was not germane to the amendment, which was sustained. (28th, p. 704.)

Senate bill provided for a mineral survey of the public school, university and asylum lands and other mineral lands.

Mr. Baines offered an amendment withdrawing from sale all school, university, asylum lands west of the Pecos River.

Mr. Bridges raised a point of order on consideration of the amendment, stating that it was not germane to the purpose of the bill.

The Speaker sustained the point of order. (28th, p. 1113.)

House was considering a bill relating to the local option law, which as amended provided;

"That nothing in this article shall be construed to prevent the sale of alcoholic stimulants by merchants doing a wholesale drug business, in the usual course of business, to retail merchants, whose regular and principal business is selling drugs and medicines and compounding prescriptions; provided, that nothing in this article shall be so construed as to permit sales by such merchants to the consumer."

Mr. Onion offered the following amendment:

"No election under the preceding article shall be held within the same prescribed limits, in less than two years after an election under this title has been held therein; but at the expiration of that time the commissioners court of each county in the State, wherever they deem it expedient, may order another election to be held by the qualified voters of said county, or any justice's precinct, or such subdivision of a county as may be designated by the commissioners court of such county, for the same purpose; provided, it shall be the duty of such court to order the election aforesaid whenever petitioned to do so by as many as two hundred voters in any county, or fifty voters in any justice precinct or subdivision of such county, as the case may be, to order an election for the same purpose, which election shall be ordered held, notice thereof given, the votes returned and counted, and the result declared and published, in all respects as provided by this title for a first election; and the order shall, if prohibition be carried, have the same force and effect and the same conclusiveness as are given to them in the case of a first election by the provisions of this title."

Mr. Brelsford raised a point of order on consideration of the amendment, stating that it was not germane to the purpose of the bill.

The chair sustained the point of order. (28th, p. 1164.)

The House still considering bill relating to the local option law as mentioned above (see 28th, p. 1164), Mr. Onion offered the following amendment:

"Provided, that when prohibition has been or may hereafter be carried at an election ordered and held for the entire county, or any subdivision thereof, any incorporated city therein having a population of four thousand inhabitants or over, which at said

election cast a majority of votes against prohibition, shall have the right after 60 days to hold an election to determine whether or not the sale of intoxicating liquors shall be prohibited within the limits of such city; and the commissioners court shall in said case and upon the petition of fifty qualified voters of such city, order an election to be held therein for the purpose aforesaid; which election shall be held, notice thereof given, the votes returned and counted and the result declared and published in all respects as provided by this Title for a first election, and the order granting such election as well as that declaring the result, shall, if prohibition be carried in such city, have the same force and effect and the same conclusiveness as are given to such orders in the case of a first election; and no election on the question of prohibition shall thereafter be ordered or held in such city for a period of two years; provided further, that in holding such county election such city shall record its vote separately from the remainder of the county."

Mr. Hodges raised a point of order on consideration of the amendment, stating that it is not germane to the purpose of the bill.

Overruled.

Mr. Hodges appealed from the ruling of the Chair.

Yeas and nays were demanded, and the House refused to sustain the ruling of the Chair. (28th, p. 1165.)

Mr. Calvin offered a resolution providing for the discharge of all employes of the Regular Session and for appointment of certain other employes.

Mr. Nowlin offered an amendment to the resolution by adding the following: "That all employes of this House who were appointed by the Speaker be retained at the same wages to serve this Special Session of the Legislature."

Mr. Calvin raised a point of order on consideration of the amendment, stating that it was not germane to the purpose of the original resolution.

Sustained. (28th, called, p. 5.)

Mr. Bryant had offered an amendment to the general appropriation bill, striking out the appropriation of \$400,000 for the support, maintenance and running of the Penitentiary system.

Mr. Weinert proposed a substitute as follows:

"For investigation, detection and prosecution of all defaulting officers and agents of the State and for the payment of fees of an able attorney to assist the Attorney General in that work, etc., \$5000."

Mr. Bryant raised a point of order on consideration of the substitute, stating that it is not germane to the amendment.

Sustained. (28th, called, p. 145.)

Resolution providing for the election of a certain person to an office can not be amended so as to elect a different person.

To a resolution naming Miss Lane as assistant enrolling clerk, an amendment was offered naming Mrs. Robinson, which, on a point of order being made that it was not germane to the original resolution, was ruled out of order. (29th, p. 75.)

To a bill relating to the franchise tax of insurance corporations, Mr. Cobbs offered an amendment as follows: "That such fire insurance companies when requested by any mayor of any city having a population of 25,000 or more, shall report to such city under oath, giving the names of all merchants who have insured their stock of goods for any one year in a sum of \$30,000 or more.

Mr. Bowser raised a point of order on consideration of the amendment on the ground that it is not germane to the bill.

Sustained. (29th, p. 183.)

To a bill relating to carrying arms so as to include any knife with a blade exceeding four inches long and by increasing the penalty from not less than \$100 and not more than \$200 and also fixing a jail penalty, this amendment was offered:

"The preceding article shall not apply to a person in actual service as a militiaman, nor to a peace officer or a policeman, or person summoned to his aid, nor to a revenue or other civil officer engaged in the discharge of official duty, nor to the carrying of arms on one's own premises or place of business, nor to one who has reasonable ground for fearing an unlawful attack upon his person, and the danger is so imminent and threatening as not to admit of the arrest of the party about to make such attack, upon legal process."

Held not germane. (29th, p. 223.)

To a bill to exempt from the control of the husband the separate property of the wife together with all rents and revenues therefrom and to exempt the same from the debts contracted by the husband, Mr. Smith offered this amendment:

"As respects such property the wife may contract, be contracted with, sue or be sued, without joining or being joined by her husband."

Held not germane to the bill. (29th, called, p. 23.)

A bill was pending which provided for an occupation tax on railroads, the same to be measured by the receipts of said roads. An amendment was offered for the entire bill which proposed a tax board and a method of ascertaining the unassessed intangible values of railroads and numerous other corporations instead of the occupation tax.

Mr. Love of Dallas raised a point of order on consideration of the amendment on the ground that it is not germane and that the amendment which is, in effect, an entire substitute for the bill under consideration, injects new matter and changes the purpose of the bill.

Sustained. (29th, p. 257.)

Senate bill No. 70 was to authorize the T. & N. O. R. R. Co. to sell its line under certain restrictions. To these Mr. Mays wanted to add the further condition that before the terms of the act should become in anywise effective, the T. & N. O. and the H. & T. C. and the H. E. & W. T. railroad companies should each cancel and reduce the amount of its outstanding stocks and bonds and other liabilities to an amount to be fixed by the Railroad Commission of Texas under the stock and bond law of the State. It was also made the duty of the Commission to see that this provision of the law was enforced by directing the cancellation of the excess of said stocks, bonds and other liabilities, as aforesaid.

Mr. Brown of Kaufman raised a point of order on the consideration of the amendment on the ground that it is not germane.

Sustained. (29th, p. 723.)

Amendment providing for a daily session of the House at 9 a. m., instead of 10 o'clock, not germane to a motion to set apart Tuesday and

Wednesday morning for the consideration of House bills on third reading.

For a motion to set apart Tuesday and Wednesday mornings for the consideration of House bills on third reading, Mr. Rice offered substitute providing that the House meet each day at 9:00 a. m. instead of ten o'clock.

Mr. Barcus raised a point of order on consideration of the substitute on the ground that it is not germane.

Sustained. (29th, p. 946.)

Amendment prohibiting Legislators from accepting railroad passes, rebates, etc., is not germane to an amendment prohibiting members drawing mileage if they used passes.

To House joint resolution fixing the salary of legislators, Messrs. Terrell and Kennedy offered an amendment prohibiting members drawing mileage if they used any free ticket or pass going to or returning from the State Capital.

Mr. Guinn offered a substitute which sought to prohibit the acceptance by legislators to passes, rebates or other favors from railroad, telegraph, express companies, etc., not granted to the general public.

Mr. Onion raised a point of order on consideration of the substitute on the ground that it is not germane.

Overruled.

After some consideration of the matter,

Mr. Heslip then renewed the point of order on consideration of the substitute, holding that it is not germane, and the Chair, this time, sustained the point of order. (29th, p. 953.)

An amendment fixing the salary of the Governor, not germane to a joint resolution fixing the salary of the members of the Legislature.

To a House joint resolution fixing the salaries of members of the Legislature, Mr. Witcher offered this amendment

"And the Governor shall receive a salary of eight thousand dollars per annum."

Mr. Hamilton raised a point of order on consideration of the amendment, on the ground that it is not germane.

Sustained. (29th, p. 953.)

An amendment seeking to prohibit the levy of an occupation tax on merchants, etc., not germane to House

joint resolution relating to the exemption of the property of schools and colleges from taxation.

To a House joint resolution amending the Constitution relating to the exemption of certain property (schools and colleges) from taxation, Mr. Kennedy offered this amendment:

"Provided, That nothing herein shall authorize the levying of an occupation tax on merchants" and some ten or fifteen businesses of a necessary and innocent nature.

Mr. McKinney raised a point of order on consideration of the amendment on the ground that it is not germane.

Sustained. (29th, p. 1358.)

An amendment authorizing the holders of a claim to bring suit against the State, not germane to a general deficiency appropriation bill.

The general deficiency appropriation bill carried with it an item to pay a claim of \$2972 for building a laundry at the Epileptic Colony at Abilene. This had been stricken out of the bill.

Mr. Shannon offered this amendment to the bill:

"The item in the pending bill under the head of Epileptic Colony, providing for the erection of a laundry and purchase of machinery, year ending August 31, 1904, \$2972, having been stricken out by the House, the owner and holder of said claim or his assigns are hereby authorized to sue the State of Texas for said amount, and either party to the suit shall have the right of appeal, and any judgment finally established against the State shall be a liquidated debt, which shall be paid by the State. That this be inserted in lieu and place of the item stricken out; and provided further, that the Attorney General shall appear and defend the suit in behalf of the State."

Mr. Moran raised the following points of order on the consideration of the amendment:

First—That the amendment is not germane to the bill.

Second—That the amendment contains legislation not mentioned in the Governor's call nor subsequently submitted by him to this session of the Legislature.

The Speaker on ruling on the points of order, said: "As to the second point of order raised by the gentleman from Parker, the Chair holds that it is entirely a question of the constitutionality of the subject

matter contained in the amendment. The Chair cannot pass on questions of constitutional law (except where they arise out of the rules of legislative procedure contained in the Constitution, and are therefore true points of order), but must leave them to the House, and subsequently to the courts for determination. The second point of order is overruled.

"As to the first point of order, the Chair thinks that the House is governed not only by the provision in the rules that no motion or proposition on a subject different from that under consideration shall be admitted under color of amendment (Rule XIX, Section 4), but also by the constitutional limitation that no bill shall be so amended in its passage through either house as to change its original purpose' (Constitution, Article III, Section 30). The effect of the constitutional provision quoted is to narrow the definition of germaneness and to exclude many amendments which relate to the general subject of the original proposition, but which changes its original purpose by eliminating essential parts of it or by adding new matter on the same subject, or by alterations in essential portions. The national House of Representatives has an identical rule on the subject of germaneness, but is not limited by an equivalent for the said provision of our Constitution, and its decisions, therefore, are applicable to cases arising here only when they sustain objections to amendments. Many objections overruled that would come within our constitutional prohibition.

"We have no provision in our rules prohibiting legislation in appropriation bills, as has the national House of Representatives, but this ground is as fully covered by the following clause from our Constitution:

"No bill (except general appropriation bills, which may embrace the various subjects and accounts for and on account of which moneys are appropriated) shall contain more than one subject, which shall be expressed in its title." (Constitution, Article III, Section 35.)

"This clause, apart from the exception, would, in the opinion of the Chair, prevent the insertion of legislation of any character in the appropriation bill, since that would introduce an additional subject. The exception makes this position

stronger, since by specifically permitting the introduction into the bill of the various subjects and accounts of appropriation it raises an implied prohibition of the insertion in the bill of any other matters or legislation whatsoever. The term 'general appropriation bills' is used in contradistinction to special appropriation for one specific purpose, and, in the opinion of the Chair, includes deficiency appropriation bills and emergency appropriation bills as well as the biennial appropriation bill for the maintenance of the State government, commonly known as 'the general appropriation bill.'

"Now, the amendment in question does not make any appropriation, but merely authorizes suit against the State to establish the validity of a claim for which the House has refused to make an appropriation, and provides that any judgment recovered shall become a liquidated demand against the State and shall be paid by the State. Should a judgment be recovered under this amendment, it could not be settled until some future Legislature should make an appropriation for its payment. The Chair does not now hold that the Legislature is without power to attach to items of appropriation in a general appropriation bill conditions on the performance of which the particular appropriation should become effective, or even prescribe the method, procedure, etc., of its payment. But the amendment as presented does neither of these things. It is not an appropriation in itself nor an appropriation with conditions, but it is a subject of legislation entirely distinct from the bill (the only point of contact, to wit, the appropriation for the payment of this claim, having been already stricken out of the bill) and the Chair therefore holds that, under the provision of our rules and the sections of the Constitution cited, this amendment is not germane to the general deficiency appropriation bill now before the House. The first point of order raised by the gentleman from Parker is sustained." (29th, called, p. 78.)

An amendment declaring that it was not the purpose of the House to pass on certain charges against a United States Senator, was not germane to a resolution providing for the appointment of a committee to ascertain the author or authors of an

alleged libelous newspaper article relating to the election of said Senator.

A resolution and a substitute providing for the appointment of a committee to ascertain the author, or authors, of certain alleged libelous and slanderous articles appearing in a New York paper relative to the election of United States Senator Bailey.

Mr. Gaines offered the following amendment to the substitute: "Amend by adding: 'Be it further resolved, That in passing this resolution it is not the purpose of the House to exonerate Senator Bailey from the charges pending against him or in any way to pass on said charges pending the investigation nor is it the purpose of the House to influence public sentiment in favor of Senator Bailey by this resolution.'"

Mr. Hamilton raised the point of order on consideration of the amendment by Mr. Gaines that it is not germane, and therefore should not be entertained.

The point of order was sustained. (30th, p. 260.)

An amendment relating to loans and the security therefor, not germane to a general banking law in reference to the reserved funds of banks.

To bill amending section 7 of the general banking law in reference to the reserve fund, Mr. Blanton offered an amendment also amending section 2, relating to loans and security therefor, and also repealing section 21 of the banking law.

Mr. Gafford raised a point of order on consideration of the amendment, on the ground that it is not germane to the purpose of the bill.

The Speaker sustained the point of order. (30th, p. 881.)

An amendment seeking to tax only the equity a man has in real estate and providing that the debts against real estate should be rendered by the owner of the lien is not germane to a bill to prohibit frauds upon the public revenues.

To a bill to prohibit frauds upon the public revenues, and defining what is a fraud upon the public revenues, Mr. Robertson of Travis offered an amendment to tax only the equity a man has in realty, and that the debts against it should be rendered by the owner of the mortgage or lien.

Mr. Stratton raised a point of order on consideration of the amendment on the ground that it is not germane to the purpose of the bill.

The Chair sustained the point of order and held the amendment not germane.

Mr. Robertson of Travis appealed from the ruling of the Chair and the House sustained the ruling. (30th, p. 970.)

An amendment prescribing the procedure in reference to the summoning of special veniremen, not germane to a bill providing for the pay of special veniremen.

To a bill to pay special veniremen Mr. Jenkins offered this amendment:

"Section 2.—No venire shall be summoned in any case unless the district or county attorney prosecuting the case shall first file a written motion therefor in which he shall state that he believes the evidence will justify a conviction for a capital offense or a verdict for life sentence in the penitentiary."

Mr. Fuller raised a point of order on consideration of the amendment on the ground that it is not germane to the bill.

The Chair sustained the point. (30th, pp. 1069-1070.)

Senate bill No. 24 still pending, Mr. Ray offered this amendment:

"Section 4a. The schedule of regular rates for long distance business in force by telephone and telegraph companies in this State on the first day of January, 1907, shall be, and is hereby made, the maximum rates to be charged by the respective companies hereafter for such or similar service. The rates for telephone companies shall be non-discriminating, and it shall be unlawful for any telephone company to charge a higher rate for any form of local telephone service or long distance telephone service between different persons in any one exchange or between any two or more points on its long distance lines; and for local exchange service a telephone company shall charge the same rate for substantially the same service in one town as charged by said company in another town, where the exchanges come within the same class as here specified. Class No. 1 shall consist of telephone exchanges in which there are not more than five hundred telephones in operation in each said exchange; class No. 2 shall consist of telephone exchanges in which

there are not more than one thousand telephones in operation in each such exchange; class No. 3 shall consist of telephone exchanges in which there are not more than three thousand telephones in operation in each such exchange, and class No. 4 shall consist of telephone exchanges in which there are three thousand or more telephones in operation in each such exchange."

Mr. Onion raised the following points of order on consideration of the amendment, viz: (1) The amendment contains subject matter not embraced in call of the Governor; (2) the amendment contains subject matter that was rejected by the House in the amendment by Mr. Ray just voted down; (3) the amendment is not germane to the bill.

The Chair held the (1) and (2) points of order not well taken, and sustained the (3), so the amendment was held out of order. (30th, called, p. 240.)

An amendment to submit the question of compulsory attendance upon public schools to a vote of the people is held not germane to a bill providing for compulsory attendance upon said schools.

Pending consideration of a bill providing for compulsory attendance upon the public schools Mr. Terrell of Cherokee offered an amendment submitting the question to a vote of the people.

Mr. Trenckmann raised a point of order on consideration of the amendment on the ground that it is not germane to the bill.

The Chair sustained the point of order. (31st, p. 346.)

Held not germane to offer as an amendment to a bill establishing a new civil court in Bexar County an entirely new bill providing for a court with both civil and criminal jurisdiction.

House bill No. 12 sought to establish a new civil court for Bexar county and Mr. Maddox offered a new bill as an amendment.

Mr. Terrell of Bexar raised a point of order on consideration of the amendment on the grounds.

(1) That the amendment could not be considered because of the fact that it proposed an entirely new bill from the original, and that the constitutional provision with reference to the publication of the intention to apply for local or special bills had not been made.

(2) That the amendment was not germane because the original bill provided for a court to try civil cases only, whereas the amendment proposed a court with both civil and criminal jurisdiction.

The Chair held the point of order well taken.

Mr. Maddox appealed from the ruling of the Chair.

Yeas and nays were demanded, and the ruling of the Chair was sustained by a vote of 77 to 10. (31st, p. 351.)

An amendment providing for the use of the Pari-Mutuel machine in wagering on horse racing was not germane to a bill prohibiting the buying and selling of pools, betting on horse racing, etc.

To a bill prohibiting the buying and selling of pools or betting on horse racing and prohibiting the leasing of premises for pool rooms, etc., Mr. Crawford offered as an amendment an entirely new bill, section 6 of which provided that nothing in sections 1, 2, or 3 of the act should be construed as prohibiting the use by legally organized and duly chartered associations operated for the exhibition and development of agriculture, etc., of the Pari-Mutuel machine system of wagering on horse races provided such Pari-Mutuel machines are used on the day within the enclosure and providing the period of racing shall not exceed fifteen days for any association in any year, etc.

Mr. Fitzhugh raised a point of order on consideration of the amendment, on the ground that it was not germane to the purpose of the bill.

The Speaker sustained the point of order.

Mr. Crawford appealed from the ruling of the Chair.

The House sustained the ruling. (31st, p. 445.)

(Note.—This amendment was not germane because the bill prohibited pool selling and betting on horse races, while the amendment authorized the selling of pools and betting on horse races under restricted conditions.—Editor.)

Example of an amendment not germane.

(a) To a bill regulating assessment and collection of taxes in cities and towns which have heretofore abolished or may hereafter abolish their corporate existence, Mr. Crockett of Mitchell offered an amendment.

(b) This amendment exempted from the provisions of this bill cities or towns which have abolished their corporate existence and after being incorporated include same area within their limits. It also construed the act as not applying to any city or town whose incorporation had been declared void by the final judgment in a court of competent jurisdiction.

(c) It also exempted any dissolved city corporation that had become or attempted to become such city, while incorporated as a town, prior to March 27, 1885, without first having abolished its corporate existence of such town.

This amendment was declared out of order because it was not germane to the bill. (31st, p. 471.)

Amendment prohibiting minors from accepting intoxicating liquors held not germane to a bill preventing the giving of intoxicating liquors to any person not twenty-one years of age without the consent of the parent.

To a bill preventing the giving of any intoxicating liquors to any person under the age of twenty-one years without the consent of the parent or guardian, an amendment was offered prohibiting any minor accepting any such intoxicating liquors.

Mr. Jennings raised a point of order on consideration of the amendment, on the ground that it is not germane to the purpose of the bill.

Sustained. (31st, p. 474.)

Instance where the subject matter of an amendment was not germane to a pending amendment.

Bank guaranty bill pending.

Mr. Ray offered an amendment changing its original purpose. To this Mr. Jennings offered a substitute which changed the purpose of the Ray amendment.

Mr. Fitzhugh raised a point of order on consideration of the substitute on the ground that the substitute offered to the amendment proposed by the gentleman from Denton (Mr. Ray) to his original bill is out of order for the reason that the subject matter of the same is not germane to the pending amendment.

The Speaker sustained the point of order, stating that the substitute by Mr. Jennings is not germane to the amendment by Mr. Ray to House bill No. 71, and is, therefore, out of order as a substitute. Also that the

amendment by Mr. Ray is not germane to the original bill, and is, therefore, out of order. (31st, p. 555.)

An amendment proposing a voluntary system of bank guaranty not germane to a bill providing for a mandatory system.

Pending bill provided for a mandatory system of bank guaranty, while amendment proposed a voluntary system.

Mr. Ray raised a point on consideration of the amendment to the amendment on the ground that the amendment by Mr. Nickels is not germane to the purpose of the pending bill and amendment, for the reason that the pending bill and amendment provides for a system of mandatory bank guaranty, while the amendment by Mr. Nickels seeks to establish a voluntary system.

The Speaker sustained the point of order. (31st, p. 558.)

An amendment to exempt farmers from a bill, the purpose of which was to procure the best men for jury service, held not germane.

To House bill relating to jury service, Mr. Hill offered an amendment exempting all farmers following the plow in plowing season.

Mr. Adams raised a point of order on consideration of the amendment to the amendment on the ground that the purpose of the bill is to procure the best men for jury service and the purpose of the amendment is to exempt the farmers from jury service and thereby eliminate the best class of men from jury service, and is, therefore, not germane to the purpose of the bill.

The Chair held the point of order well taken. (31st, p. 587.)

An amendment requiring the Legislature to work six days and prohibiting any member from being excused to practice law, not germane to an amendment to the rules providing that it should not be in order for the Speaker to entertain a motion that the House accept an invitation to visit any place.

Considering an amendment to the rules providing that it should not be in order for the Speaker to entertain any motion that the House accept an invitation to visit any place.

An amendment was offered requiring the Legislature to work from

sun up till sun down, six days each week, and attend church on Sunday.

An amendment prohibiting any member of the Legislature from being excused to practice law.

Mr. Mobley raised a point of order on consideration of the amendment, and the amendment to the amendment, on the ground that they were not germane to the purpose of the resolution.

The Speaker sustained the point of order. (31st, p. 663.)

An amendment prohibiting railroad companies from accepting defectively baled cotton not germane to a bill prohibiting compresses from improperly baling cotton.

The object and purposes of a bill can not be changed by an amendment.

Mr. Johnson raised a point of order on consideration of the amendment on the ground that the amendment offered by Mr. Moller is not germane to the bill.

The Chair held the point of order well taken, stating that the bill seeks to prohibit the compress and other people from improperly baling their cotton, and the amendment seeks to do an entirely different thing; that is, to prohibit railroad companies from accepting such defective bales. (31st, p. 680.)

The same question involved in page 680. The facts were the same.

Mr. Johnson raised a point of order on consideration of the amendment on the ground that it was not germane to the purpose of the bill.

The Chair (Mr. Fitzhugh) sustained the point of order.

Mr. Moller appealed from the ruling of the Chair and the appeal was seconded.

The House sustained the ruling of the Chair. (31st, p. 681.)

It was not germane to offer as an amendment a proposition for the purpose of facilitating the collection of damage claims to a bill, the object of which was to prohibit the barratrous practice of law.

House bill No. 122, a bill to be entitled, "An Act to provide against the barratrous practice of law by providing that contracts and agreements for the contingent and percentage fees for the collection, by suit, or otherwise, of claims for damage, to be valid and enforceable in the courts of this State, shall be in writing, and providing in case suit is brought upon such claim, that a copy

or draft of such contract or agreement shall be filed, and kept on file, with the papers in the cause, and providing for an offset or remittitur against the judgment that may be recovered upon such cause to the extent of the contingent fee in case it be shown, or appear, that such agreement or contract is barratrous, providing for procedure to that end, and declaring an emergency."

"Amend by adding the following section: 'Any offer of settlement or compromise of any claim for personal injuries made by any individual or corporation to any person having such claim, before such person having such claim has recovered from such personal injuries as far as such injuries permit of recovery, or, in case of the death of such injured person, before his or her burial, may be introduced in evidence on the trial of any suit arising out of such personal injuries. When such offer of settlement or compromise is offered in evidence it shall be taken as prima facie proof of the negligence on the part of such individual or corporation making such offer of settlement or compromise to the injured party.'"

Mr. Nickels raised a point of order on consideration of the amendment on the ground that it is not germane to the purpose of the bill.

Overruled. (31st, p. 827.)

Note.—Evidently the Chair (Mr. Standifer) did not understand the purport, purposes and objects of the two propositions. The bill had for its object the prohibition of the barratrous practice of law, while the amendment was clearly for the purpose of facilitating the collection of damage claims. It may be that the contention will be made that the subject matter of the bill and of the amendment was "damage claims." Looking at it from that standpoint, the bill was to hinder the collection of claims and the amendment was to make their collection practically absolutely certain, each going in opposite directions. Therefore, the adoption of the amendment would have changed the purpose of the bill, hence not germane.—Editor.)

A substitute for an amendment which proposes to amend a different part of a bill from that of the amendment, is not germane to the amendment.

Pending House bill regulating the place where railroad companies shall

keep and permanently maintain their general offices, shops and round house, etc., Mr. Lee offered an amendment to page 1, line 26, and Mr. Stevenson offered a substitute amendment amending line 30.

Mr. Mobley raised a point of order on consideration of the substitute on the ground that it is not germane to the purpose of the amendment.

Sustained. (31st, p. 883.)

(Note.—The amendment was amendatory of line 26, while the substitute proposed to amend line 30.—Editor.)

AMENDMENTS—IN ORDER.

The friends of a bill have the right to perfect it before a vote is taken on a substitute.

Mr. Carswell of Wise had offered an amendment to the bill while another amendment was pending.

Mr. Brown of Wharton raised a point of order on consideration of the amendment on the ground that it seeks to amend the original bill (Senate bill No. 14), while an amendment to the bill is pending.

The Chair (Robertson) overruled the point of order on the ground that the friends of a bill have a right to perfect it before a vote is taken on a substitute, which the Cottrell amendment is in fact. (29th, p. 762.)

AMENDMENTS—NOT IN ORDER.

If an amendment is lost or tabled, another one of the same import is not in order on the same reading or stage of the bill.

Mr. Shropshire offered the following amendment to an amendment:

"Amend by inserting after the word 'service' in line 30, page 1, the following, 'or issue to any person other than an employe of said railroad any free pass or permit to ride over said railroad'. Strike out all of section 2, page 2."

Mr. Wooten raised the point of order that the amendment was not in order for the reason that a similar amendment had been tabled.

Sustained. (26th, p. 1193.)

An amendment is not in order if a former amendment containing the same matter has been tabled.

Mr. Bridgers offered an amendment covering the matter contained in an amendment which had just been tabled.

Mr. Stollenwerck raised the point of order that the amendment was out of order for the reason that it sought to do the same thing that the amendment just tabled sought to do.

The Chair sustained the point of order. (27th, p. 359.)

An amendment to strike out matter previously inserted in a bill is not in order unless reconsideration is ordered.

Mr. Bolin offered the following amendment:

"Amend the bill as amended by striking out the word 'lawyer' wherever it appears in the bill."

Mr. Hancock raised a point of order for the reason that the House had just inserted such amendment in the bill and had tabled a motion to reconsider same.

The point of order was sustained. (28th, p. 175.)

An amendment proposing that the Speaker appoint and pay all the boys who wanted to serve as pages, whether their services were rendered or not, not germane to a resolution authorizing the appointment of five additional pages.

Mr. Cobbs offered a resolution authorizing the Speaker to appoint five additional pages. (p. 21.)

Mr. Jones offered the following substitute for the resolution:

"Resolved that the Speaker of the House be authorized to appoint any and all boys who want to serve as pages, and that they shall be paid two dollars per day for services whether rendered or not."

Mr. Grisham raised a point of order on consideration of the substitute, stating that it is indefinite, is in violation of the spirit of the Constitution, and is simply a travesty upon the pending resolution.

The point of order was sustained. (28th, called, p. 23.)

Points of order must be made at the proper time.

A motion had been made to table an amendment.

Mr. Bertram raised a point of order on consideration of the amendment on the ground that it is not germane to the bill, and that it is not authorized by the Governor's

call for the Special Session nor by any subsequent message.

The Speaker stated that the point of order came too late. (29th, p. 155.)

If the amendment is the same as one just tabled or defeated, it will not be in order.

Mr. Wilmeth raised the point of order that the amendment is the same in substance as the committee amendment which the House tabled, and for that reason it should not be considered.

Sustained. (29th, p. 1296.)

APPROPRIATIONS—RULE 21.

The clear intent and purpose of the rules of the house is that no appropriation shall be made except by bill and that all bills carrying appropriations shall be considered in the committee of the whole House, yet these two provisions have been disregarded in numerous instances.

The House was considering a bill for the appointment of a commission to report on the judiciary system and making an appropriation to carry out the purpose of the resolution.

Mr. Tarver raised the point of order:

First—That the House was not in the "Committee of the Whole".

Second—That no appropriation of money shall be made except by bill.

Third—That the proceedings before the House is a joint resolution carrying an appropriation of \$2500, and cited Rule — the House, which reads: "All proceedings touching appropriations of money shall be discussed in the Committee of the Whole House, and no appropriations of money shall be made except by bill," and that for the foregoing reasons the joint resolution is not properly before the House.

Overruled. (26th, p. 672.)

Miscellaneous items may appear in the general appropriation bill.

Considering the miscellaneous items in the general appropriation bill.

Mr. Tarver raised the point of order that each and every item under the head of "Miscellaneous" in this appropriation bill can not be consid-

ered or adopted, because from the specification given each item, it clearly appears that the relief therein sought can only be obtained by a special act of the Legislature.

Overruled. (26th, p. 1246.)

Appropriations can be made by means of a resolution.

Mr. Henderson of Lamar raised the point of order that the resolution is in the nature of legislation in that it seeks to make an appropriation, and that such can not be done by a resolution.

The Chair held the point of order not well taken. (26th, p. 1456.)

House may by amendment attach conditions to an appropriation.

The House was considering the General Appropriation bill when Mr. Terrell of Travis offered an amendment to the Treasury Department as follows:

"The appropriation herein made for salary of clerks shall not be paid to more than two clerks who may be related to the State Treasurer in the third degree of consanguinity or affinity."

Mr. Bertram raised a point of order on consideration of the amendment on the ground that it is not germane to the bill.

The Speaker, ruling on the point of order raised by Mr. Bertram, said:

"The Chair thinks that this amendment is a condition attached to an appropriation, upon failure to comply with which the appropriation will cease to be effective. If this view is correct, the amendment is germane and does not amount to legislation on a different subject from that under consideration, more particularly so since the clerks whose qualifications are in a measure prescribed by this amendment, are, it seems, not statutory officers, but merely employes filling places created by the biennial appropriation bill." (29th, called, p. 95.)

BILLS—ADVERSE REPORT.

An adverse committee report on a bill does not prevent the consideration of a similar bill.

The House was considering a bill similar to one adversely reported upon by the House, when Mr. Bailey raised the point of

order that a bill having the same object had been reported adversely by Judiciary Committee No. 2, which was in effect the defeat of the bill, and that it was not now in order to pass on this bill.

Overruled. (26th, p. 1206.)

Mr. Terrell of McLennan raised the point of order on consideration of the bill, and said:

"I make the point of order that this bill can not be considered at this time for the reason that House bill No. 30, on the same subject, was adversely reported by the Committee on State Affairs, and thereby 'killed'. The Constitution, Article 3, Section 34, provides that when any measure has been defeated by either branch of the Legislature, no other bill embodying the same question shall be considered at that session. House bill No. 30 was killed by this House acting through its regularly constituted committee; therefore this Senate bill is out of order and can not now be considered."

Overruled. (30th, p. 414.)

BILLS—ADVERSE ACTION BY SENATE.

Instance where House considered a bill when another bill of the same import was defeated in the Senate.

Mr. Shelburne raised the point of order that a bill should not be considered for the reason that a bill containing the same subject matter had been defeated in the Senate, and referred to Section 34, of Article 3, of the Constitution of Texas.

Overruled. (26th, p. 415.)

(Note.—If the record showed that Mr. Shelburne had his facts correct, the Speaker was clearly wrong.—Editor.)

BILLS—CONSTITUTIONALITY OF.

Often during the consideration of a measure, the constitutionality of a bill has been raised, but the invariable rule seems to have been for the presiding officer to pass it up to the House, one Speaker remarking that it placed too much responsibility in the hands of the Speaker.

The Speaker laid before the House on its third reading and final passage,

House bill No. 46, the Ten-Pin Alley bill.

Mr. Childs raised the point of order that the bill was not properly before the House for the reason that it was not framed in accordance with the Constitution, inasmuch as the bill sought to amend a "subdivision" of an act of the Twenty-fifth Legislature, and that the Constitution did not recognize subdivisions, but provided that the section amended must be re-enacted in full, and moved to recommit the bill to the Committee on Revenue and Taxation.

The Speaker in ruling stated that he would not pass upon the constitutionality of the bill, but would leave that for the House to do, and would submit the motion to recommit.

The House recommitted the bill, thus sustaining the point of order. (26th, p. 326.)

Bill relating to the assessment of property held not to violate the constitutional provision requiring revenue bills to originate in the House.

Senate bill No. 4, being what is known as the Full Rendition bill, was before the House.

Mr. Lively raised a point of order on consideration of the bill on the ground that it is a revenue-raising bill, and that it should have originated in the House.

Overruled. (30th, called, p. 150.)

BILLS—GENERAL.

A House bill granting to the city of Austin a block of land within said city for public free school purposes, held to be a general bill.

A bill for the purpose named was pending, when Mr. Henderson of Lamar raised the point of order that the bill was not a local bill, but general in its nature, and that it is not proper to consider it on local bill day.

The speaker held the point of order not well taken. (26th, p. 908.)

Senate bill granting Collis P. Huntington the right to use certain streets, wharves and alleys of Galveston held to be general bill.

Mr. Garner raised the point of order that Senate bill No. 228 is a local bill and that the proper notice

required by the Constitution had not been given.

Overruled.

And Mr. Wooten raised the point of order that this bill is a local bill, as recognized by its authors in giving notice by advertisement, and it effects every locality through which any and all of Collis P. Huntington's railroads pass. Therefore, it ought to have been advertised in every locality effected by the proposed law, which had not been done. The notice has only been published in Galveston, whereas it ought to have been advertised in all the towns and counties whose railroad connections are effected by the Huntington wharves.

Overruled.

Mr. Garner raised the further point of order that Senate bill No. 228 is a local bill, and should be considered on Saturday, which is local bill day.

Overruled. (26th, p. 942.)

Bills to validate titles in Carson, Dallam and Henderson counties held to be a general bill.

On local bill day the House was considering House bill No. 396, "An Act to validate titles to lands located and patented in Carson, Dallam and Hutchinson counties on July 4, 1879."

Mr. McDowell raised the point of order that the bill was not a local bill, and that it was not in order to consider same today.

Sustained. (26th, p. 1157.)

Bill extending time for payment on school lands to citizens of Ft. Bend, Waller and Harris counties held to be a general bill.

House bill extending time for the payment of principal and interest on certain school lands for five years to citizens of Fort Bend, Waller and Harris counties, was placed before the House on local bill day.

Mr. Terrell of Cherokee raised the point of order that it is not a local bill.

Sustained. (27th, p. 844.)

Bill relating to Confederate Home at Austin is a general bill.

Bill relating to the government of the Confederate Home located at Austin was read on local bill day, whereupon,

Mr. Seabury raised the point of order that the bill was not a local bill.

The point of order was sustained and the bill went back to the Speaker's table. (27th, p. 1032.)

Bill relating to the sale of public lands on islands, not local.

A bill to be entitled "An act to provide for the purchase of public lands in quantities of five acres or less situated on islands by actual settlers who have settled on and placed valuable improvements thereon in good faith, or to their heirs or legal representatives, prior to the first day of January, 1895, and prescribing the price, terms and manner, and time of such purchase," was held on a point of order by Mr. Bean not to be a local bill. (27th, p. 1162.)

An Act to amend the general game (fish) law is not a local bill.

Pending House bill No. 100, to amend the General Laws of the State of Texas, relating to the fish law; and to exempt certain counties from the provisions of said act,

Mr. Seabury raised the point of order on consideration of the bill, stating that the bill was general in its application and not local, and that it was not in order to consider it today unless by unanimous consent.

Sustained. (28th, p. 156.)

Bill to create a new county held not to be a local bill.

During the consideration of a bill to create the county of Ross out of parts of Comanche, Brown, Coleman, Eastland and Callahan counties,

Mr. Terrell of McLennan raised the point of order on the consideration of the bill that it is not a local bill, and that this night's session was set apart for the consideration of local bills only.

Sustained. (29th, p. 918.)

Mr. Brelsford rising to a point of order requested of the Speaker that he lay before the House as a local bill, on its second reading, and passage to engrossment, House bill No. 260, a bill to be entitled, "An Act to create the county of Ross out of parts of Eastland, Comanche, Brown, Coleman and Callahan counties."

The Speaker (Mr. Robertson of Bell) held that the bill was not a local bill and could not be taken up except by unanimous consent.

Mr. Brelsford appealed from the ruling of the Chair.

The House sustained the ruling of the Chair. (29th, p. 1045.)

Mr. Canales raised a point of order that this is a local bill, (1) because it seeks to locate a county seat; (2) because it only effects certain territory, and under Sections 56 and 57 of Article 3 of the Constitution it requires it to be advertised thirty days, and evidence of such fact to be exhibited to the Legislature, which is not done in this case, and therefore the bill is not properly before the House.

The Chair (Mr. O'Bryan) overruled the point of order.

Mr. Robertson of Bell raised a point of order that it is not a local bill, for the reason that it is sought by the Legislature to create a county out of four different counties. It is general in its nature. That any measure that would come up in the interest of this county, if organized, after it was created, would be a local measure.

The Chair (Mr. O'Bryan) sustained the point of order.

Mr. Canales appealed from the ruling of the Chair on the point of order raised by Mr. Robertson of Bell.

The House sustained the point of order. (31st, p. 492.)

Bill creating a district court out of parts of two or more counties not local.

Pending, on local bill day, House bill, the nature of which point of order explains.

Mr. Bowles raised a point of order on further consideration of the bill, on the ground that it is not a local bill for the reason that it creates another half of a district court for Dallas county and another half of a district court for Grayson county, and makes changes also in the time of the meeting of the district court in Collin County.

Sustained. (31st, p. 602.)

Fee bill applying to counties of more than 80,000 not local.

The House was considering a fee bill applying to counties having a population of 80,000 or more.

Mr. Adams raised a point of order on consideration of the amendment on the ground that the bill is a local bill and notice thereof must be advertised before its passage by the Legislature.

Overruled. (31st, p. 837.)

A bill to amend an Act to apportion the State in congressional districts is not a local bill.

The House was considering a bill of that character on local bill day, when Mr. Cable raised a point of order on further consideration of the bill at this time on the ground that the bill is not a local bill.

Sustained. (31st, p. 911.)

The House may by unanimous consent consider a general bill on local bill day.

The House was considering a general bill.

Mr. Fitzhugh raised a point of order on consideration of the bill on the ground that tonight was set apart under the Rules of the House for the consideration of local bills only.

The Chair overruled the point of order, stating that the bill was taken up by unanimous consent of the House. (31st, p. 912.)

Bills relating to judicial districts general.

The House was considering a bill changing certain counties from the 24th to the 36th Judicial District.

Mr. Reedy raised a point of order on consideration of the bill at this time on the ground that the bill was not a local bill.

Sustained. (31st, p. 917.)

BILLS—LOCAL.

Local bills can be considered only on the days designated by the rules.

Mr. Lillard raised the point that under the rule, it was not in order to consider the bill (Austin City Charter bill) today, as it was a local bill strictly, and that said rule provided that such bills should be considered on Saturday of each week until disposed of.

Sustained. (26th, p. 402.)

Bill to donate to the Road and Bridge fund of Brazoria County the State taxes collected from occupations and property in said county, held to be a local bill.

A bill to be entitled "An Act to aid Brazoria County, Texas, by supplementing the road and bridge fund of said county by donating and granting to it the taxes collected upon property and persons in said county for a period of ten years, and providing for a proper transfer to said fund", was held to be a local bill. (27th, p. 1163.)

A bill establishing a civil court for Bexar County held to be a local bill.

Mr. Reedy raised the further point of order that the original bill was a general bill instead of a local bill.

Overruled. (31st, p. 352.)

BILLS—PRINTING OF.

All bills when reported favorably by a committee shall be printed and a copy laid on the desk of each member before the bill is acted on by the House.—(Rule 18. Section 7.)

Mr. Wooten raised the further point of order that there were several printed bills on the desks of the members, all numbered Senate bill No. 228, that they were dissimilar, and that the bill is not before the House properly, according to the procedure prescribed by the Constitution and the rules of the House.

Overruled. (26th, p. 942.)

Mr. Garner raised the point of order that the bill had not been ordered printed by the House, and since there is an adverse majority report on the bill, it is not in order to consider it until the House has ordered it printed.

The Speaker did not sustain the point of order and stated that as the bill had been printed and laid on the desks of the members, he would accept the situation as it was and let the House overrule the decision of the Chair, if it so chooses. (27th, p. 98.)

(Note.—There was no appeal from the decision of the Chair, but a strict interpretation of the rules would have prevented the consideration of the bill at that time.—Editor.)

No bill can be considered unless it has been printed and laid upon the

desks of the members unless the House has specifically ordered otherwise.

Mr. Wilmeth raised the point of order that the printed bill had not been laid on the desks of members, and moved that the Sergeant-at-Arms be directed at once to place upon the desks of the members all the printed bills now in his possession.

The motion prevailed, and the Sergeant-at-Arms was directed to comply with the order. (30th, called, p. 40.)

No bill can be considered unless it has been printed and laid on the desks of the members.

Mr. Gilmore raised a point of order on consideration of the bill at this time, stating that it is not in order, for the reason that the bill had not been printed and laid on the desks of the members, as required under the Rules of the House.

The Speaker sustained the point of order, stating that while the calendar shows that the bill had been printed, it had not been laid on the desks of the members. (31st, p. 234).

BILLS MUST BE IN POSSESSION OF THE HOUSE.

House can not act on a resolution or a bill which has been transmitted to the Senate without recalling the same.

Question then recurring on the motion of Mr. Tarver to reconsider the vote by which House Concurrent Resolution No. 20 was adopted,

Mr. Cole raised the point of order that the resolution being a concurrent resolution and having been sent to the Senate and having been already adopted by that body, and the House having been duly informed of said action, as is shown by the Journal, it would be a discourtesy to the Senate for the House to entertain a motion to reconsider without first informing the Senate that such a motion is pending in the House, and returning the same to the Senate with request that action thereon be reconsidered and the resolution returned to the House.

Sustained. (26th, p. 365.)

BILLS—READING.

Pending reading of a bill, no motion can be entertained.

Mr. Phillips of Lampasas raised the point of order that it was not proper to entertain a motion while the reading of a bill is in progress.

Mr. Shelburne in the Chair sustained the point of order.

Mr. Teagle appealed and the House sustained the Chair. (27th, p. 728.)

While the Constitution says that a bill should be read, yet it is often not done.

Mr. Kennedy rose to a point of order and said:

"Mr. Speaker: I make the point of order that we can not now pass this bill to its third reading, for the reason that it has not been read. As a member of this House, I demand that the plain mandates of the Constitution be complied with." This the Clerk refused to do.

Overruled. (26th, p. 1123.)

(Note.—See Rule 18, Sections 8-9.—Editor.)

No bill can be read more than once on the same day unless it contains the emergency clause.

Mr. Gaines raised a point of order on further consideration of House bill No. 58 at this time, stating that it is not in order to place the bill on its third reading today, for the reason that the bill does not declare an emergency.

Point of order sustained. (31st, p. 328.)

The point of order having been made that a bill had not been read, the Speaker directed the Clerk to read the bill.

Mr. Cox raised a point of order on further consideration of the bill, on the ground that it had not been read second time.

The Chair overruled the point of order, and stated that if the gentleman from Rockwall (Mr. Cox) desired the bill read again he would direct the Clerk to read the bill.

The Clerk then read the bill. (31st, p. 445.)

RECALLING BILLS.

There is nothing in the Constitution or in the Rules of the House

providing for the recall of a bill from the Governor after it has been sent to him for his approval. In fact, a strict construction of the Constitution, as interpreted by this writer, would prohibit such a procedure. However, relying upon the practice in Congress, it has been the rule to recall for correction, modification, and in some instances, entire changes in bills that have been sent to the Governor. In Congress bills sent to the President, but not yet signed by him, are sometimes recalled by concurrent resolution of the two Houses and there have been instances wherein the President returned a bill already signed by him in order that an error in the enrollment might be corrected. A bill wrongly enrolled was recalled from the President, who erased his signature and in the House the bill was recommitted to the Committee on Enrolled Bills for correct enrollment. It seems that when this matter was presented, that the question was raised as to the constitutional power of the House to take this method and the Speaker left it to the House to determine. The final conclusion of the matter was that the two Houses of Congress could call only for bills which had not been signed by the Governor or which are supposed not to be signed by him.

Among the instances where bills have been recalled by concurrent resolution was one recalled on motion by Mr. Bailey, of Texas, who, by unanimous consent, presented, and the House agreed to, a resolution requesting the President to return to the House a Senate bill for correction of a verbal error. After the bill was returned, it was referred to a committee for amendments. There are many other instances recited in the precedents of the House (Congress) where bills have been recalled after having been sent to the President and there are instances where the Vice-President and the Speaker of the House have erased their names from bills after having been signed by them, therefore, it seems that the action of the Legislature in recalling bills from the Governor is justified by the precedents above referred to, and our rules, being silent as to those matters, the rule which obtains in Congress governs. But in Congress the propriety of this procedure has been

seriously questioned. And the procedure in the Legislature of this State was condemned by some of the best lawyers in the House, one of these being Mr. Jenkins, now a member of one of the Civil Courts of Appeals.

The most notable instances in the recent legislative history of this State of bills having been recalled from the Governor are those found in the proceedings of the Thirtieth Legislature.

Senate bill No. 26, creating a Board of Medical Examiners, was passed by both Houses and presented to the Governor for his signature on the 18th day of March, 1907. On the 26th day of March, the House and Senate adopted a concurrent resolution requesting the Governor to return the bill for correction and amendment and the Governor on that date returned to the Senate said bill. On the 2nd day of April, the House passed Senate Concurrent Resolution rescinding the action of the Lieutenant Governor and the Speaker of the House on signing of said bill and they were authorized and directed to erase their signatures from the enrolled bill. The House recalled the bill from the Senate and the vote on the passage of the bill was rescinded and the bill was returned to the calendar. It was again read second time, amended, passed to its third reading, read third time and finally passed.

Pending in the House a Senate Concurrent Resolution rescinding the action of the Lieutenant Governor and the Speaker in signing Senate bill No. 26, authorizing and directing said officers to erase their signatures from the enrolled bills,

Mr. Jenkins raised a point of order as follows:

"I make the following points of order against the consideration of Senate Concurrent Resolution rescinding the action of the Senate and the House of Representatives and authorizing said officers to erase their signatures from said bill:

"Said Senate bill No. 26, having finally passed the Senate and the House, and having been signed by the Speaker of the House and the President of the Senate and sent to the Governor, and by him received on March 28, 1907, and there being no constitutional power in the Legis-

lature to recall said bill from the Governor, and more than ten days having elapsed since said bill was received by the Governor, and he not having returned said bill to the Senate, in which it originated, within ten days after having received said bill, the same has now become law and can not be amended by this Legislature except by a new bill on same subject.

"The Senate having passed said bill and sent it to the House, the same became the property of the House and could not be legally returned to the Senate, except by the House for concurrence in amendments by the House. The House having passed no amendment to said bill, said resolution shows upon its face that it is improperly in the custody of the Senate, and this House has no authority to pass said concurrent resolution.

"If said bill could be recalled from the Governor at all it could be only by resolution of the House, and not by joint resolution, and more than ten days having elapsed since said bill was delivered to the Governor, this House has lost all control over said bill."

The Speaker held the point of order not well taken, and stated that, as the points raised by the gentleman from Brown, Mr. Jenkins, involved a question of constitutionality in the procedure, it was rather a question for the House to decide when the bill is before the House for amendment than a point of order to be passed upon by the Chair.

Mr. Cobbs raised a further point of order on consideration of the resolution on the ground that the bill having remained in the custody of the Governor, the time required by the Constitution, and not being by him returned with objections to the legislative body in which it originated, it has become a law, that the House has no jurisdiction over it and the bill should be at once returned to the Senate, and by that body returned to the Governor.

The Chair held the point of order not well taken.

Mr. Jenkins raised a further point of order on consideration of the resolution, stating that the resolution, or the bill, were sufficient evidence that the bill is not properly in the custody of the House.

Overruled. (30th, p. 1212.)

House was considering Senate bill No. 26.

Mr. McGregor raised a point of order against further consideration of this bill, and said:

"I make the point of order against the further consideration of Senate bill No. 26 that the House had no power to recall the same from the Governor, and that in law it is yet in the custody of the Governor, and he having had it more than ten days it is now a law by virtue of Article 4, of Section 16, of the State Constitution. See *Wolf vs. McCoul*, 76 Va., 876."

The Chair held the point of order not well taken. (30th, p. 1248.)

Mr. Jenkins raised a point of order on further consideration of the amendments on the ground that the resolution recalling the bill stated that the bill was recalled for the purpose of "correction and amendment," and that being the object for which the bill was recalled, the bill is now, or should be, on its final passage, instead of its passage to a third reading, and that it should require a two-thirds majority to amend the bill.

Overruled.

Mr. Love of Williamson then raised a point of order on further consideration of the amendments on the ground that the second reading of the bill is void, and that the House had no authority to place the bill back on a second reading.

Overruled. (30th, p. 1251.)

The House resumed consideration of the pending business, same being Senate bill No. 26, regulating the practice of medicine, on its final passage.

Mr. McGregor raised a point of order on further consideration of the bill, and filed the following objections to be printed in the Journal, in which he was joined by Mr. Jenkins:

Specific objections to the further consideration of Senate bill No. 26 and a motion to strike it from the calendar of the House.

"I object to the further consideration of Senate bill No. 26, and raise in support of said objections the following points of order:

"This bill originated in the Senate. It passed that body finally on the—day of March, came to the House,

was committed, reported favorably, and on the — day of March after a free discussion was passed finally by the House. And that on said — day of March, immediately after the passage of the said bill by said vote a motion to reconsider said vote was made, and a motion was made to table said motion, which motion prevailed and the motion to reconsider was tabled. That thereafter the said bill was enrolled and in the presence of the House was signed by the Speaker, and on the — day of March, 1907, and after being so signed by the Speaker and also by the Lieutenant Governor, the said bill was transmitted and delivered to the Governor of the State of Texas pursuant to the constitutional provisions for the delivery of bills to the Governor. And that the said Governor held said bill in his possession for about eight days, and that he neither signed said bill nor refused to sign the same, nor did he return it without his signature to the House from whence it originated, together with his written objections, if any, were not recorded, and the vote taken thereon as prescribed shall be done by said Section 14 of Article 4 of the Constitution of the State of Texas, and that the Governor had no authority in law to surrender the said bill and could not surrender the same, and that under the law he now has the legal custody of said bill, and that having had the legal custody of same for more than ten days after it had been delivered to him, it has become a law by virtue of that portion of the constitutional provision referred to, and is now a law of the State of Texas, and this House can not alter it, or amend the same except by a new bill introduced for that purpose.

"This House had no authority to recall said bill, as it had lost control of same, and the Governor can not return said bill except pursuant to Section 14 of Article 4 of the Constitution, and a further point of order that the time for making the motion to reconsider the original bill had expired when the resolution to that end was introduced in the House. And that because of these facts, all of which are shown by the record, this bill is wrongfully and illegally upon the calendar of this House, and should be stricken therefrom; I,

therefore, object, and move that the same be stricken from the calendar of the House. And in support of this motion, I respectfully submit that the constitutional provisions referred to are identical with the constitutional provisions of the State of Virginia, which are construed in the case directly in point by the Supreme Court of Virginia, to wit: the case of Wolfe vs. McCaul, 76 Va., 877, which case, with the other therein cited, is here referred to in support of this motion.

McGregor.

I concur in the above.

Jenkins.

The Chair overruled the points of order, and stated that it was a matter for the House to pass upon. (30th, pp. 1291-1292.)

In the Called Session of the Thirtieth Legislature, the Governor by special message requested the Legislature to recall House bill No. 2, relating to the collection of fees for officers of certain State offices. The bill was returned to the House and the House,

Resolved, That the same be re-committed to the Senate for correction. The Senate amended the bill and returned it to the House, whereupon,

The House concurred in Senate amendments, the bill was again enrolled, signed and presented to the Governor.

(Note.—We observe that so far as the record goes, the formality of having the Lieutenant Governor and the Speaker of the House to erase their signatures was not had.—Editor.)

There must be good and valid reasons for withdrawing bills from the Governor.

A resolution was offered in the House asking for the recall of a House bill for the reason that the people of San Antonio vigorously protested against the concentration of tuberculosis insane in that city, and because the bill was contrary to the evident wish of the administration and the people that the unfortunate victims of tuberculosis be segregated so that they can be suitably cared for without danger to a populous community.

Mr. Cox raised a point of order on consideration of the resolution on the ground that the resolution does

not state sufficient reasons for the recall of the bill.

Sustained. (31st, p. 1147.)

BILLS—SUBSTITUTE.

House bill No. 298 was read.

Mr. Henderson of Lamar raised the point of order that the bill was not properly before the House for the reason that only the substitute reported by the committee had been printed and laid on the desks of the members, and that the original bill should have been printed together with the substitute.

Overruled.

Mr. Henderson appealed, but later withdrew it, thus acquiescing in the ruling of the Chair. (26th, p. 626.)

Mr. Childs raised the point of order that Senate bill No. 39 is not properly before the House, as the committee to whom the bill was referred exceeded its authority when it substituted a committee bill for the Senate bill. The committee had the right to amend the Senate bill or kill it, but it could not substitute a new bill for a Senate bill and bring it into the House and call it Senate bill by Senator Wayland, as it would then become an original bill, and not an amended bill (Rules United States House of Representatives, "Reed's Rules," Section 77, page 62), and would in fact be a House bill and not a Senate bill. It could not stand as a House bill, not having been introduced in the House, and could not be a Senate bill as the committee left the Senate bill in the committee room by their report, and if they could bring in an original bill in this way it would have to be treated as a House bill, and undergo a three day's reading in the Senate if the House should pass it and return it to the Senate for their action. The committee by its action practically killed the Senate bill by making a substitute bill, and the only course is to recommit the bill, otherwise it is practically killed, since all bills must be referred to a committee and reported before they can come before either House. (State Constitution.) Otherwise the constitutional rule that bills should be read on three several days would be violated. It might be held otherwise if either house was considering its own bills

and not those of the other branch of the Legislature.

Overruled. (26th, p. 683.)

(Note.—Under the rule prevailing in the House now the contention of Mr. Childs was correct. In other words, there are now no so-called substitute bills; they are treated as amendments only.—Editor.)

The House was considering substitute House bills Nos. 10 and 12, which was a substitute gotten up by a majority of the committee for House bills Nos. 10 and 12; the minority of the committee recommended that House bill No. 10, with certain amendments, do pass.

Mr. Brelsford moved that the substitute reported by a majority of the committee be adopted.

Mr. Murray of Wilson raised a point of order on consideration of the substitute, stating that it had no standing in the House, not having been introduced in the House, read first time, referred to a committee and reported back to the House as required by Section 37, of Article 3, of the State Constitution.

Overruled. (28th, p. 188.)

(Note.—The practice in the House now is to offer so-called substitutes as amendments; that is, all but the enacting clause is stricken from the bill and the proposed substitute is offered as an amendment.—Editor.)

Pending substitute House bills Nos. 4, 5 and 39, Mr. Murray of Wilson raised a point of order on further consideration of the bill, stating that the State Constitution, Article III, Section 32, provided that "no bill shall have the force of law until it has been read on three several days in each House, and free discussion allowed thereon," and that this bill, having been brought in by the committee, had not taken the course designed by the Constitution, and that it should be read first time, referred to a committee and reported back to the House before it could be properly considered.

Overruled.

Mr. Murray of Wilson appealed from the ruling of the chair. The Chair was sustained. (28th, p. 443.)

Committee may propose an entire substitute for a bill without having said substitute re-introduced.

Mr. Barcus raised a point of order on consideration of House bill No. 64, on the ground that it had been referred to a special committee, that said special committee had prepared a substitute and reported same to the House, which had been printed, that said substitute had been offered as an amendment to the bill, when, in fact, it should have been introduced in the House by a member, put on its first reading, referred to a standing committee, entered on the calendar and have taken the regular course of a bill de novo. Overruled. (29th, p. 1067.)

COMMITTEES — ORGANIZATION, POWERS, DUTIES OF.

Is it within the province of the House to invite persons to address permanent committees of the House?

Aldrich offered the following resolution:

"Whereas, It has been announced through the press of this State that the Hon. James S. Hogg will deliver an address in the city of Austin on next Tuesday night in behalf of the constitutional amendments proposed by him; and

"Whereas, The adoption or rejection of said amendments is a matter of great public interest; therefore, be it

"Resolved, That the Hon. J. S. Hogg be invited to use Representative Hall for the delivery of such address on next Tuesday night, or on any earlier night that he shall indicate."

Aldrich.
Gary.

Mr. Garner offered the following amendment

"Amend by striking out 'use Representative Hall' and insert 'address the joint committee of House and Senate on constitutional amendments.'"

Mr. Grisham raised the point of order on the amendment by Mr. Garner that it was not within the province of the House to invite any one to address a committee, but that such invitation must come from the committee.

Overruled. (27th, p. 274.)

(See "Rights of Committees.")

COMMITTEE REPORTS.

Committee reports are advisory only.

Mr. Garner rose to a point of order and said

"Mr. Speaker: I make the point of order that this bill can not now be voted upon by the members of this House, because the committee report has never been adopted by this House, and there is a majority and minority report, and hence before the bill can be voted upon the majority report must have been adopted. The majority report, which was adopted on yesterday, was not the report upon the bill we are voting upon, but was a report upon an entirely different bill, which had never been considered by any committee."

The Speaker held the point of order not well taken. (26th, p. 948.)

(Note.—Since the above ruling the rules of the House have been amended so as to expressly say that committee reports are advisory. (See Rule 8, Section 10.) The only advantage of a favorable report is that it carries with it a self-acting order to print the bill or measure, while it requires an order of the House to print a bill when the report is adverse.—Editor.)

Adverse report of a committee does not kill a measure.

A resolution providing that some one should be employed to transport the mail to and from the House had been reported adversely by the Committee on Contingent Expenses, to which it had been referred.

Mr. Hodges raised the point of order and stated that inasmuch as the committee report was adverse, it had the effect of killing the resolution, and that there was nothing before the House.

Overruled. (28th, p. 147.)

Committee reports are purely advisory.

Senate bill No. 4 pending on adverse report, Mr. Terrell of McLennan raised a further point of order on consideration of the bill on the ground that it is not properly before the House, since it has been reported adversely by the Committee on Rev-

enue and Taxation, and that House bill No. 1, on the same subject, was reported favorably, and should be considered.

Sustained. (30th, called, p. 150.)

Floor reports officially recognized.

A bill having been reported from the committee on a floor report,

Mr. King raised a point of order on consideration of the bill on the ground that it was not properly before the House, stating that it had never been considered in committee, but was reported to the House by what is known as a "floor report."

Overruled. (30th, called, p. 344.)

RIGHTS OF COMMITTEES.

A House committee is a law unto itself so far as its procedure is concerned.

Mr. McFall raised the point of order on the Garner amendment that it was not germane to the resolution, and should not be considered, since the object sought in the resolution was to tender the use of this hall to Hon. J. S. Hogg for the delivery of his address next Tuesday night, which has been advertised to be delivered in the opera house; and further, that the House had no jurisdiction in the matter of inviting any one to address a committee.

The Chair overruled the point of order and said:

"The rules of the House have no provision whereby the order of procedure before a committee can be dictated by the House. The committee, therefore, is a 'law unto itself,' and has the sole right of regulating its procedure.

"However, the Chair having been officially informed that the House committee has itself extended the invitation contemplated by the Garner amendment, the Chair holds that the said amendment is merely seeking ratification on the part of the House of the action of the committee, and therefore permissible.

"The original resolution merely provided for a change of place from the opera house to this hall for the delivery of the speech. The Garner resolution changes the place from this hall to the committee room, and in itself is germane. Even though

germane, the Garner resolution would be ruled out as overriding the rights of the committee, if the committee had not already extended the invitation, but having extended the invitation the House may ratify the acts of the committee. Point of order overruled." (27th, p. 303.)

A resolution which reflects upon a committee of the House held not in order.

Resolution criticising a committee for an alleged violation of the rules was offered.

Mr. Dean raised a point of order on consideration of the resolution on the grounds:

(1) That it cast an undue reflection on a standing committee of this House and on its chairman.

(2) That the House yesterday accepted the report of the committee by a rising vote, and refused to recommit the bill for the alleged irregularities in same.

Sustained. (30th, p. 1284.)

COMMITTEES—IN VACATION.

The Legislature has the power and the right to create a committee to sit between sessions of the Legislature.

Resolution was pending providing for the appointment of a Joint Committee to sit during recess and investigate the affairs of the State, for which members were to be paid.

Mr. Dorroh raised the point of order that the House has no authority to make the appointment of this committee for the reason that Section 18, Article 3, of the Constitution reads, in part, as follows: "No member of either House shall, during the term for which he is elected, be eligible to any office or place, the appointment of which may be made, in whole or in part, by either branch of the Legislature."

The Speaker held the point of order not well taken, and stated that precedent and long established custom would sustain the House in adopting such resolution if it chose to do so. (26th, p. 1062.)

COMMITTEE OF THE WHOLE HOUSE—RULE XX.

A bill having been considered in the Committee of the Whole House

in part, it would not be in order to resume consideration in the House until the final report of the Committee of the Whole House had been made.

Mr. Decker offered the following substitute for the pending amendments:

"That House bill No. 111 be adopted down to line 28, page 32; provided the appropriation for State University may be amended or added to."

Mr. Bailey raised the point of order that the bill is not properly before the House for the reason that it was considered in part by a Committee of the Whole House, and then taken up in the House without said Committee of the Whole having made a final report to the House.

Mr. Bailey then moved that the House adopt so much of the bill as was considered in Committee of the Whole, together with such amendments as were adopted by the Committee. (29th, p. 1009.)

(Note—While the record does not disclose the ruling of the Chair, the presumption is that point was well taken.—Editor.)

Held that a resolution carrying an appropriation could be considered without referring it to the Committee of the Whole.

Pending resolution carried an appropriation.

Mr. Kennedy raised a point of order on consideration of the resolution, stating that, as the resolution proposed an appropriation, it should be considered in a Committee of the Whole House.

Overruled. (30th, p. 40.)

Held not necessary for bill carrying an appropriation to be considered in the Committee of the Whole House.

Bill carrying an appropriation pending in the House without having been referred to the Committee of the Whole,

Mr. Kennedy raised a point of order on further consideration of the bill on the ground that the bill carries an appropriation, and that it should be considered in a Committee of the Whole House before being finally passed.

Overruled. (30th, called, p. 313.)

Yeas and Nays — Demand for, a constitutional right.

Constitution: Article 3, Section 12.—Each House shall keep a

journal of its proceedings, and publish the same; and the yeas and nays of the members of either house on any question shall, at the desire of any three members present, be entered on the journals.

Rule 9, Section 6. The yeas and nays of the members of the House on any question shall, at the desire of any three members present, be called and entered on the Journal.

Yeas and nays having been demanded on a pending motion,

Mr. Mays raised a point of order on the demand for the yeas and nays on the ground that the yeas and nays are being continually demanded by certain members for the purpose of obstructing the proceedings of the House, and that the Chair should not entertain the demand.

The Chair (Mr. Harris) overruled the point of order. (29th, p. 1345.)

CONTINGENT EXPENSE

A motion to purchase a portrait of a Texas pioneer and pay for it out of the contingent expense fund held in order.

A resolution to purchase a portrait of General Ed Burleson and pay for it out of the contingent expense fund of the House was offered.

Mr. Murray of Wilson raised a point of order on consideration of the resolution, stating that the resolution proposes to appropriate money out of the contingent fund for a purpose that cannot be construed as contingent expenses, and that said appropriation cannot be made except by bill, without doing violence to the Constitution and the Rules of the House which provide that (see Rule XXI, Section 1,) "No appropriation of money shall be made except by bill."

Overruled. (29th, p. 451.)

DECORUM AND DEBATE.

The House may by resolution, duly adopted, fix the time for debate on any measure pending before the House.

Mr. Schluter offered a resolution that eight hours should be devoted to a discussion of House Joint Resolution No. 1. It also provided that the time should be equally

divided between the proponents and the opponents, and that the time of each side should be consumed by those selected by the respective caucuses.

Mr. Shannon raised the point of order that the resolution was in the nature of a change in the Rules affecting the order of business, and therefore out of order.

Overruled.

Mr. McFall raised the additional point of order that the resolution, if adopted, would cut off a full discussion of the question as provided for in the Constitution and Rules of the House.

Overruled. (27th, p. 456.)

Debate is not in order, pending a motion to extend the time of a member who has the floor.

Mr. Mobley raised a point of order, stating that it is not in order for the gentleman from Tarrant County (Mr. Wortham) to speak to the resolution at this time, for the reason that when the House adjourned yesterday the pending question was—Shall the time of the gentleman from Austin County be extended?

Sustained. (31st, p. 136.)

Note:—Although it has been the practice to extend by unanimous consent, and sometimes by order of the House, the time of a member while speaking, it is not in accordance with the rules to extend it, if there is objection. The Rule (10) expressly fixes the time that a member may speak (see Sections 3 and 4, also Section 7, Rule 12; and Section 4, Rule 13). Section 3 of Rule 12 says, "When a question is under debate no motion shall be received but——" Then follows nine motions which are permissible and in order, but a motion to "extend the time of the gentleman from Austin" is not one of them. It is true, however, that during the regular session of the 31st Legislature Mr. O'Bryan, while temporarily occupying the Chair, declared the motion last above mentioned out of order, and on appeal the House refused to sustain the Chair. But the Speaker of the House (Mr. Kennedy) refused to recognize the decision of the House and only permitted a member to exceed the time limit set by the rules by unanimous consent.—Editor.)

When a motion is made to table a proposition, the mover of the same

or the member reporting it from a committee has the right to close the debate. (Rule XII, Section 7.)

Mr. Fuller being recognized to speak to the motion to table, Mr. Ray raised a point of order that the motion to table is not debatable.

The Chair overruled the point of order, stating that the mover of the proposition has the right to close the debate. (31st, p. 826.)

While under the previous question, the mover has the right to close the debate, he can not speak after the vote has been taken and when the Chair is about to announce the vote.

The House was considering an amendment to the rules. The previous question had been ordered. After the vote had been taken, but before the same had been announced, Mr. Seabury, Chairman for the Committee on Rules, arose to address the House.

Mr. Wells of Grayson raised the point of order that, for the reason that the previous question had been moved and seconded, and that the House had voted, and the Chair being in the act of announcing the result, further discussion was out of order, even by the mover of the proposition.

The Chair sustained the point of order and stated that the gentleman from Starr would have had the right to address the House under the previous question if he had sought recognition at the proper time, but since the House had come to a vote on the question and the result was about to be announced, the Chair would only permit further discussion by unanimous consent. (27th, p. 239.)

DILATORY TACTICS.

A motion to adjourn held not to be dilatory.

Pending a motion to adjourn.

Mr. Satterwhite raised the point of order that the motion to adjourn is purely dilatory, and for the purpose of obstructing proceedings, and should not be entertained.

Overruled. (27th, p. 1223.)

A member is not entitled to the floor when his evident purpose is to delay the transaction of business.

Mr. Reedy being recognized to speak to his amendment, Mr. Rayburn raised the point of order that he is not entitled to the floor for the

reason that he was using it for dilatory purposes.

Sustained. (31st, p. 1204.)

DIVISION OF QUESTIONS.

Susceptible of division. A question must be divided, when demanded, at the proper time. But the division must be called for before the Clerk begins to call the roll.

Shall the House concur in Senate amendments? Yeas and nays were demanded on the motion to concur.

The Clerk was directed to call the roll, whereupon, Mr. Jones called for a division of the amendments.

The Clerk was then proceeding to read the amendments.

Mr. Terrell of Travis obtained the floor and moved to table the call for a division of the amendments.

The Chair ruled the motion to table out of order.

Mr. Terrell of Travis then appealed from the ruling of the Chair.

The House sustained the ruling of the Chair.

(Mr. Seabury then resumed the chair.)

Question then again recurring on the request of Mr. Jones for a division of the amendments,

Mr. Love raised a point of order on the request for division, stating that the request had come too late, since the yeas and nays had already been demanded on the motion to concur, and the Chair had directed the Clerk to call the roll.

Sustained. (28th, p. 1059.)

A motion to recede from the rejection of the Senate amendments to a bill is not divisible.

A motion to recede from the rejection of Senate amendments to a House bill and a motion to insist upon them were pending.

Mr. Brown of Wharton called for a division of the question on the amendments.

Mr. Hamilton raised a point of order on the call for a division, stating that the question was indivisible on the motion to recede.

Sustained. (30th, called, p. 390.)

ELECTION OF U. S. SENATORS.

The House and Senate having agreed upon an hour for the election

of a United States Senator, all else must give way at that hour.

While Mr. King was on the floor speaking to a pending question,

Mr. Fuller raised the point of order that the hour (12:15 p. m.) set apart by concurrent vote of the two houses for the House to go into the election of a United States Senator, had arrived and that pending business should now be suspended for that purpose.

Sustained. (30th, called, p. 181.)

ELEVATOR.

Has the House jurisdiction over the elevator?

Mr. Sevier offered the following resolution:

"Resolved, That Charles Ferrell be employed as elevator man to operate the elevator in the Capitol building at a salary of sixty dollars per month, for as long as this Legislature shall remain in session, to be paid out of the contingent funds of the House."

Mr. Seabury raised a point of order on consideration of the resolution and stated that the resolution was out of order for the reason that its tendency was to extend the jurisdiction of the House over the elevator, thereby encroaching upon the authority of the Superintendent of Public Buildings and Grounds.

Sustained. (30th, p. 181.)

EMPLOYES.

A resolution to employ stenographers, etc., on January 21st, having been voted down, held that a resolution offered at a later date for the same purpose was entirely different.

Mr. Looney offered a resolution providing for the appointment of additional stenographers.

Mr. Satterwhite raised the point of order that a resolution similar in substance was defeated by the House on January 21, and that, under Article 3, Section 34, of the Constitution, another resolution with the same object in view could not be considered at this season.

The Speaker overruled the point of order, stating that while both resolutions sought to make provision for appointment of stenographers and typewriters for the use of the House, the proposition to provide for such service on January 21 was entirely

different from the proposition coming at this time. (27th, p. 323.)

The question of selecting employees for a called session of the Legislature succeeding a regular session fully discussed.

Mr. Calvin offered a resolution discharging all of the employees of the House appointed for the Regular Session and authorizing the Speaker to appoint three committee clerks and not exceeding six pages to be selected from among the employees of the regular session.

Mr. Jones offered a substitute, instructing the Speaker to discharge all employees whose services, in his judgment, were not required.

Mr. Grisham raised a point of order on consideration of the pending resolutions, stating that all appointments expired with the Regular Session, hence, there were no employees to be discharged.

Overruled. (28th, p. 5.)

Calvin resolution pending.

(1) Mr. Cobbs raised a point of order on consideration of the resolution, stating that, if the organization of the House still existed as provided for in a resolution by Mr. Griggs, adopted January 15th, as shown on page 33 of the printed Records of the Regular Session, said resolution must be rescinded before a resolution like the one now pending before the House is in order.

Overruled.

(2) Mr. Cobbs then raised a further point of order on consideration of the resolution, stating that there is no necessity for the pending resolution, since the original resolution, adopted January 15th, as shown on page 33 of the printed Record (alluded to above), provides that any of the employees provided for in said resolution may be "discharged by the Speaker for inefficiency, neglect of duty, or other satisfactory cause," and that, under said resolution, the Speaker is vested with full authority to dispense with the services of any of said employees as provided thereunder, and furthermore, that the resolution is a serious reflection on the prerogatives of the Speaker.

Overruled.

Mr. Cobbs appealed from the ruling of the Chair on the first point of order raised.

The House sustained the ruling of the Chair. (28th, p. 11.)

COMPENSATION OF EMPLOYEES.

A resolution to increase the compensation of the employees of the House had been reported favorably by the Committee on Contingent Expenses to which it was referred.

Mr. Henderson of Lamar raised the point that the resolution reported by the committee was not in order and should not be entertained until a resolution relating to organization of the House, adopted January 10, is rescinded.

Sustained. (26th, p. 360.)

(Note:—A minority of the Committee here made the following report: Committee Room, Austin, Texas, March 18, 1899, Hon. J. S. Sherrell, Speaker of the House of Representatives. Sir:—We, a minority of your Committee on Contingent Expenses do not concur in the opinion of the Majority of this Committee, which recommends that the Reading Clerk be allowed \$1.00 per day from March 1, 1899, for extra work. Personally, we would be glad to support this resolution, but for the reason the granting of extra compensation as proposed, is, in our opinion, expressly prohibited by Section 44, Article 3, of the Constitution. Moreover, the Speaker has held that a resolution of this kind can not be considered unless the resolution providing for the organization of the House be reconsidered, and that it is now too late for such reorganization. — Calvin, Kennedy, Meitzen. (26th, p. 1151.)

(The House rejected the proposition to increase the compensation asked for.—Editor.)

Held that a motion to grant extra compensation to an employe was in order, notwithstanding original resolution providing for the organization of the House had not been rescinded.

Mr. Henderson of Lamar raised the point of order that it is not proper to entertain a proposition to grant extra compensation to an officer of the House until a resolution relating to organization of the House, adopted January 10th, 1899, is rescinded.

The Chair held the point of order not well taken. (26th, p. 1152.)

Mr. Chambers raised the point of order that a proposition of like character had been submitted to the House before, that is, to allow extra compensation to officers of the House.

and had been declared out of order by the Speaker on a point of order raised by the gentleman from Lamar, Mr. Henderson.

The Chair held the point of order not well taken. (26th, p. 1152.)

EMPLOYES—"SICK-PORTER."

It has been held that the House can employ a porter to look after sick members.

Mr. Ware offered a resolution authorizing the Speaker to appoint a sick-porter to attend a sick member during his illness.

Mr. Isaacks raised a point of order on further consideration of the resolution, stating that the House had no authority, under the Constitution, to employ a person for the purpose named in the resolution.

Overruled. (28th, p. 750.)

ENACTING CLAUSE

Motion to strike out the enacting clause takes precedence of all other amendments.

Mr. Bridgers offered as a substitute to a pending bill, a motion striking out the enacting clause.

Mr. Napier raised the point of order that the amendment by Mr. Bridgers should not be put to a vote until the friends of the bill shall have time to perfect it.

Overruled. (27th, p. 110.)

If the enacting clause appears in the original copy of the bill as filed, its omission from the printed bill is immaterial.

Mr. Bolin raised a point of order on further consideration of the bill, stating that as the printed bill contains no enacting clause, there is nothing before the House.

The Chair overruled the point of order, stating that the original bill on the Speaker's table contains the enacting clause, and that the omission is clearly a mistake of the printer. (28th, p. 786.)

"FREE" CONFERENCE COMMITTEE—REPORTS OF.

There is really no such thing as a "Free" Conference Committee author-

ized by the joint rules of the two Houses. All the rules do is simply in case of a disagreement between the two Houses, authorize the appointment of a Conference Committee to meet and consider the difference. After this conference, if each House shall have disagreed as to the disposition of the bill or resolution under consideration, it shall be lost.

While the rules do not authorize the appointment of a "Free" Conference Committee, yet by long established custom and practice in the Legislature "Free" Conference Committees are generally appointed and these committees have often exercised plenary powers in that they have not confined their reports to the matters disagreed upon between the two houses, but have gone outside of that and in many instances have brought in entirely new bills. The practice in Congress has established a precedent that a Conference shall not in its report include subjects not within the disagreement submitted to them by the Houses. However, where one House strikes out all of the bill of the other after the enacting clause and inserts a new text and the difference is over this subject referred to the Conference, the managers have a wide discretion in incorporating germane matter and may even report a new bill on the subject. But it is not within the province of a Conference Committee to include in its report new items constituting in fact a new and distinct subject not in disagreement, though germane to the questions in issue. An instance: A Conference Committee presented a report in the House of Representatives (Congress) in which it included new matter, viz: the part of clause not found in either the House bill or the Senate amendment, the point of order was made on the consideration of this report on the ground that the committee exceeded its authority and the point of order being sustained, was equivalent to the rejecting of the report of the House on a vote.

According to precedent in Congress a "Free" Conference is that which leaves the Committee of Conference entirely free to pass upon any subject where the two Houses have disagreed in their votes, not, however, including any action upon any subject where there has been a concurrent vote of both Houses. A simple Conference is that which confines the

Committee of Conference to the specific instructions of the body appointing. Under this definition, all of the Conference Committees not instructed are "Free," and those who are instructed are "Simple."

The report of a Free Conference Committee was pending when,

Mr. Love of Williamson raised a point of order on consideration of the report on the ground that the Conference Committee should have confined its deliberations to adjustment of the differences between the two houses, but in lieu of such action the committee went outside such differences and have brought in a bill containing matter not submitted to it.

Overruled. (30th, p. 989.)

A motion to adopt report of a Free Conference Committee does not have precedence over a motion to reject.

Motion of Mr. Hamilton that the report of a Free Conference Committee be adopted, and substitute therefor, by Mr. McKenzie, that the report be rejected.

Mr. Hamilton raised a point of order on the substitute and stated that the motion to adopt should have precedence over the motion to reject.

The Chair (Mr. Robertson of Bell) overruled the point of order. (30th, p. 994.)

A motion to insist on House amendments to a Senate bill does not take precedence over a motion previously made to recede from House amendments.

Mr. Connell moved that the House do now recede from its amendments to Senate Bill No. 2, relating to the office of State Reveune Agent.

Mr. James moved that the House insist upon its amendments to Senate Bill No. 2.

Mr. Alderdice raised a point of order on the motion of Mr. McConnell stating that the motion of Mr. James that the House insist upon its amendments should be put and voted upon first.

Overruled. (30th, called, p. 383.)

A motion to insist on House amendments to a Senate bill does not take precedence over a motion previously made to recede from House amendments.

The House resumed consideration of the pending business, same being the motion of Mr. Connell that the House do recede from its amend-

ments should have precedence over the former motion that the House do recede.

And motion of Mr. James that the House do insist upon its amendments.

Mr. James then raised a point of order and stated that the latter motion that the House do insist upon its amendments should have precedence over the former motion that the House do recede.

Overruled. (30th, called, p. 390.)

INVESTIGATION.

Can the House investigate the conduct of a private citizen?

Mr. Gardner offered a substitute for the original McFall resolution, which differed from the original in this: McFall resolution alleged, "It has been charged" etc., while the Garner resolution struck these words out and inserted in lieu thereof, "It has been charged by Hon. D. A. McFall" etc.

Mr. Calhoun raised the point of order that the resolution under consideration is out of order for the reason that this House has no legal or constitutional authority to resolve itself into a Committee of the Whole House to investigate the character of a private citizen.

The Chair overruled the point of order, and stated that it would be left for the House to pass upon. (27th, p. 50.)

DISTRICT JUDGES.

Leave of absence granted District Judges within the power of the House.

A resolution granting a District Judge permission to leave the State pending,

Mr. Jenkins raised a point of order on consideration of the resolution, stating that it is entirely unnecessary and superfluous, for the reason that there is neither any constitutional or statutory law that makes it necessary that the Legislature grant a District Judge leave to absent himself from the State.

The Speaker overruled the point of order, and said: "The contention of the gentleman from Brown that such a resolution is futile and unnecessary may be correct, but that

question is one to be passed on by the House and not by the Chair." (30th, p. 455.)

Mr. Gafford raised a point of order on consideration of the resolution on the ground that there is no law requiring that a District Judge obtain permission of the Legislature in order that he may absent himself from the State.

The Speaker overruled the point of order, and stated that it is within the power of the House to pass such a resolution, should it desire to do so. (30th, p. 668.)

LANDS—PUBLIC FREE SCHOOL.

Bill pending was to confirm an ordinance of the City of Galveston which granted certain rights to streets and alleys in Galveston and authorizing C. P. Huntington, et al., to construct and maintain piers on the shores of Galveston bay and relinquishing any claims the State of Texas might have to said property.

Mr. Henderson of Lamar raised the point of order that,

First.—Lands sought to be conveyed constitute a part of the common free school fund. (See Supreme Court's decision in Hogue vs. Baker, Commissioner.)

Second.—That said lands are to be disposed of by general statute. (See Article 7, Section 4, State Constitution.)

Overruled. (26th, p. 942.)

MOTIONS.

See Rule XII, Page 45. Mover of motion to adjourn must be present when vote is taken.

Mr. Phillips made a motion to adjourn, but before the motion was put he left the Hall.

Mr. Bean raised the point of order that the mover of the motion was absent from the Hall and that by his absence had waived the motion.

Sustained. (27th, p. 349.)

MOTIONS—PRECEDENCE.

See Rule 12, Section 3.

Mr. Napier raised the point of order that the motion to postpone to a

day certain took precedence of a motion to postpone indefinitely and should be decided first.

Sustained. (27th, p. 634.)

MOTIONS—POSTPONEMENT.

A motion to postpone to a day certain takes precedence over a motion to postpone indefinitely.

Mr. Kennedy raised a point of order on consideration of the motion to postpone indefinitely on the ground that the motion to postpone to a day certain takes precedence and that the latter motion should not be entertained by the Chair.

Sustained. (29th, p. 759.)

POSTPONEMENT.

Pending consideration of the various reports of the Bailey investigating committee, Mr. Duncan offered a written motion calling for the printing of 200 copies of the report and the proceedings of the Committee and moved that all action by the House on the report of the Committee be deferred until such printing could be done.

Mr. Love of Williamson raised a point of order on consideration of the motion submitted by Mr. Duncan, on the ground that the question before the House should be the adoption of the majority report.

The Speaker overruled the point of order, stating that the motion was in the nature of a motion to postpone, and, therefore, it would take precedence. (30th, p. 676.)

OFFICERS—EXTRA COMPENSATION.

All officers of the House shall be elected by ballot, and shall receive such compensation as the House may determine; and after their salary has been fixed, no further or extra compensation shall be allowed them. Rule No. 2.

A resolution pending to pay the Reading Clerk \$1.00 per day from March 1st for extra work.

Mr. Terrell raised the point of order that additional pay could not be allowed under Rule 63, which reads as follows: "No extra compensation

shall be allowed to any clerk or other officer of the House."

Overruled. (26th, p. 1151.)

OFFICERS.

Speaker not responsible for acts of elective officers.

Mr. Kennedy rose to a point of order and said:

"Mr. Speaker: For the third time I demand that the Clerk read the bill in full. He has omitted at least two-thirds of it, and I protest against the disregarding of the plain mandates of the Constitution in this matter."

The Speaker stated that the Chair is not responsible for the manner in which the Clerk reads a bill. (26th, p. 718.)

(Note:—The rules of the 31st House declared that the Chief Clerk of the House under the direction of the Speaker should have charge of the secretarial work of the House. Rule 4, Section 1.—Editor.)

ORDERS OF THE HOUSE.

The House can instruct a committee at any time.

Mr. Cobbs offered a resolution instructing a committee to "at once report on the bill."

Mr. Love of Dallas raised a point of order on consideration of the amended resolution on the ground that the House had this day granted the Committee on Revenue and Taxation ten days further time for consideration of all bills before it and that the House could not immediately, following said action, direct the committee to report a bill at once.

The Speaker overruled the point of order, holding that the adoption of the resolution would simply be an order of the House. (29th, p. 486.)

The House can instruct committee.

Mr. Fitzhugh offered a resolution ordering a bill still in a committee unreported, printed and set down for a hearing at 2:30 p. m. next Friday.

Mr. Williams raised a point of order on consideration of the resolution, on the ground (1) that it would have the effect to change the rules of the House and that it should

go to the Committee on Rules and, furthermore, (2) that it seeks to establish a special order before another special order of the calendar is finally disposed of.

The Speaker sustained the point of order (2) in so far as it relates to a conflict with another special order not disposed of, but held that the House could instruct a committee and that part of the resolution is in order. (29th, p. 486.)

PENDING BUSINESS.

Although the House may begin the consideration of a bill out of its place on the calendar, it must give way to the proper pending business if the point of order is made.

The House was considering House Bill No. 2.

Mr. Kennedy raised the point of order on further consideration of Senate bill No. 2 at this time on the ground that Senate bill No. 19 is, in fact, the pending business and should have been laid before the House as unfinished business in lieu of Senate bill No. 2.

Sustained. (30th, called, p. 311.)

The House resumed consideration of Senate bill No. 2, which had gone to the table, pending the consideration of Senate bill No. 19.

Mr. Kennedy then raised the point of order on further consideration of the bill at this time, stating that the bill is not properly before the House, for the reason that, when Senate bill No. 19 was disposed of, the Speaker should have laid the bill before the House as pending business, and have stated the question.

Overruled. (30th, called, p. 313.)

(Note:—This point of order was evidently made for the purpose of delay.—Editor.)

PERSONAL INTEREST.

Mr. Middlebrook raised a point of order on further consideration of the bill (Anti-pass bill) stating that, as a majority of the members were personally interested in the subject matter of the bill, they are disqualified under Section 22, Article 3, of the Constitution of Texas from voting

on the bill, and that a quorum could not be secured to vote on its passage.

Overruled. (28th, p. 786.)

PETITIONS—MEMORIAL.

Petitions sent to members may be read for the information of the House.

Mr. Nelson of Hopkins sent up to the Clerk's desk and asked to have read certain petitions from citizens of Hopkins county relative to election of United States Senators.

While the Clerk was reading the petitions,

Mr. Dean raised the point of order that the petitions were sent to the gentleman from Hopkins personally, and not to the House, and that it was entirely out of order to have them read in the House.

The Chair held the point of order not well taken. (30th, p. 175.)

PLATFORM DEMANDS.

Since the adoption of Rule 22, Section 2, it has been repeatedly held that all bills having for their purpose the carrying out of some platform (Democratic) demand should have the Right of Way over all other measures.

To the consideration of a bill regulating primary elections Mr. King raised a point of order on consideration of the bill as a Democratic platform demand on the ground that the purpose of the bill did not conform to the demand of the Democratic platform on the subject of primary elections.

Overruled. (30th, p. 1218.)

(Note:—The point at issue was whether or not a bill providing for party nominations by a plurality vote was a compliance with the demand which declared for a law making such nominations by a majority vote.—Editor.)

Mr. Terry raised a point of order on consideration of a bill prohibiting minors from obtaining intoxicating liquors, on the ground that it is not a platform demand and does not relate to any platform demand.

The Chair sustained the point of order, and the bill was withdrawn and placed on the calendar. (30th, p. 1226.)

Bill relating to the appointment of bailiffs pending,

Mr. Canales raised the point of order that under the Rules, bills embracing platform demands should take precedence over other bills and that this bill, not embracing platform demand, should be set aside for the present.

Sustained. (30th, called, p. 172.)

Bank guaranty bill pending.

Mr. Terrell of Bexar raised a point of order on further consideration of the bill on the ground that the bill is not a platform demand, because the question was not submitted to the people in a primary, under Section 120 of the Terrell election law as passed by the Thirtieth Legislature, which provides: "Any political party in this State in Convention assembled shall never place in the platform or resolutions of the party they represent any demand for specific legislation on any subject, unless the demand for such specific legislation shall have been submitted to a direct vote of the people, and shall have been endorsed by a majority of all the votes cast in the primary election of such party."

The Speaker overruled the point of order, giving the following reasons:

Section 2, Rule 22, says that all bills relating to State platform demands shall have precedence over all other bills, except the general appropriation bill, and all bills except on suspension day, Senate bill day and local bill night.

When this bill was placed before the House last Friday, it was not suspension day, it was not local bill night, nor Senate bill day, and it is still before the House, the regular order not having been suspended.

The Chair has a certified copy of the platform adopted at San Antonio, over the signature of the secretary of the convention. Plank 6 reads: "In harmony with the National Democratic platform pledging the party to legislation for a guaranty of national bank deposits, we favor the proper establishment of a system under the protection and control of the State for the guarantee for the deposits of the State banks of Texas."

The Chair holds that any resolution or any demand or any statement by the San Antonio convention declaring for anything or against legislation is specific instructions to the Democrats of this Legislature. As to

how any man may vote upon this question is immaterial.

If the law quoted by the gentleman from Bexar is a legal authority and is proper and right, the San Antonio convention violated it by adopting this platform, and we are not violating it by obeying the expressed will of the Democratic party at San Antonio.

Mr. Terrell of Bexar appealed from the ruling of the Chair.

The Chair was sustained, yeas 93, nays 22. (31st, p. 558.)

POINTS OF ORDER.

Resolution pending:

"That the Hon. J. S. Hogg be invited to use Representative Hall for the delivery of such address on next Tuesday night, or on any earlier night that he shall indicate."

Amendment by Mr. Garner:

"Amend by striking out 'use Representative Hall' and insert 'address the joint committee of House and Senate on constitutional amendments.'"

Mr. Aldrich raised the point of order that the amendment by Mr. Garner was not germane to the resolution.

The Chair held that the point of order could not be entertained at this proceedings (27th, p. 297).

(Note.—This ruling is wrong. A point of order is always in order. The Garner amendment was certainly not germane because the original purpose was to tender the Hall of the House to Gov. Hogg, while the amendment sought to have Gov. Hogg address a Joint Committee of the two Houses.—Editor.)

Having fixed an hour to hear a public address, and the orator having accepted, it was not in order to designate some other order of business for that hour.

Mr. Strickland raised a point of order on consideration of that part of a resolution offered by Mr. Reedy providing for a session of the House tonight, on the ground that the House had invited Mr. J. E. Grinstead of Kerrville to address them tonight at 8 o'clock, and that Mr. Grinstead had accepted; therefore, the House having disposed of the time, can not pass a resolution to do something else at that time.

Sustained. (31st, p. 618.)

PUBLICATION OF NOTICE.

Section 57, Article III, of the Constitution says that

"No local or special law shall be passed unless notice of the intention to apply therefor shall have been published in the locality where the matter or thing to be affected may be situated, which notice shall state the substance of the contemplated law, and shall be published at least thirty days prior to the introduction into the Legislature of such bill and in the manner to be provided by law. The evidence of such notice having been published shall be exhibited in the Legislature before such act shall be passed."

It has been held in effect by the courts that the certification of the passage of bills by the proper officers carries with it the presumption that all requirements of the Constitution as to the passage of bills have been complied with.

The Dallas City Charter bill pending, Mr. Pitts raised the point of order that this being a local bill and special law, the necessary legal notice required by the Constitution had not been given, that the public notice required by the Constitution and rules governing special laws intended as a compliance with the law did not give the substance of the proposed bill as required, and cited the alleged notice which was in substance that said charter was to be a special act of the Legislature to contain all the powers, rights and liabilities which it now has subject to such amendments as may by such Legislature be made, together with such other powers, rights, and liabilities that said Legislature may see fit and proper and just.

The Speaker held the point of order not well taken. (26th, p. 851.)

Mr. Wooten rose to a point of order and said:

"Mr. Speaker: I raise the point of order that this bill is a local bill, as recognized by its authors in giving notice by advertisement, and it affects every locality through which any and all of Collis P. Huntington's railroads pass. Therefore, it ought to have been advertised in every locality affected by the proposed law, which has not been done. The notice has only been published in Galveston, whereas it ought to have been advertised in all the towns and counties whose railroad connections are affected by the Huntington wharves."

The Speaker held the point of order not well taken. (26th, p. 949.)

Mr. Moran raised the point of order, that, as the Speaker had already ruled that this is a local bill (the Galveston grade-raising bill) it is not proper to consider it, for the reason that the published notice which has already been exhibited to the House is not sufficient compliance with the Constitution to cover the subject-matter of this bill; therefore, the bill stands before the House as if no notice had been given.

Overruled. (27th, p. 1124.)

Mr. Murray raised the point of order that the bill proposes to enact a special law and that the notice required by the Constitution, Art. III, Sec. 57, had not been published as required by said section of the Constitution.

The Speaker overruled the point of order, and stated that it was not within the province of the Chair to pass upon a constitutional question, but would leave it for the House to pass upon.

There was no appeal from the ruling of the Chair. (27th, p. 507.)

Pending was the bill, "An Act to aid the City of Galveston in elevating and raising said city, so as to protect it from calamitous overflows, by donating and granting to it the State ad valorem and part of the occupation and poll taxes collected upon property and from persons in said city, for a period of fifteen years, and to provide a penalty for their misapplication."

Mr. Moran then raised a point of order and said:

"Then, Mr. Speaker, I make the point of order that this is a local or special law, and that the proposed notice, as read, does not refer to nor contemplate the provisions of this bill, and that there has been no notice given as required by the Constitution, in Section 57, Article III."

The Speaker, in ruling, stated as follows:

"The Chair holds that it is not within the province of the Chair to determine the constitutionality of a bill, because that is a judicial function. The duties of the Chair are covered by the responsibility of seeing that legislative proceedings are carried on in a parliamentary manner under the rules governing same. To determine whether or not a bill is constitutional involves judicial

scrutiny and construction which are vested in the House, and subsequently in the courts, and not in a presiding officer; and therefore declines to decide questions involving legal construction, but confines himself to deciding points of order which involves parliamentary proceedings." (27th, p. 1076.)

QUESTIONS—ASKING.

It is competent for a member to ask another a question for information, although the member interrogated has resumed his seat.

Mr. Love of Williamson obtained the floor and propounded a question to Mr. Duncan, who had yielded the floor.

Mr. Cobbs then raised the point of order that it was not competent for a member who was on the floor to question another who had yielded the floor and taken his seat.

The Speaker overruled the point of order and stated that it was competent for a member on the floor to seek information from a member who had resumed his seat by properly addressing the Chair and the member questioned chose to reply. (30th, p. 132.)

PREVIOUS QUESTION — AMENDMENT.

(Rule 13.)

By consent or by agreement an amendment may be offered after the previous question has been ordered.

To an amendment, Mr. Wheless raised the point of order that the amendment was not in order, for the reason that it had been withdrawn and that it was not in order to offer it after the previous question had been moved and ordered.

The Speaker overruled the point of order, and stated that the amendment had been offered as a substitute for the amendment by Mr. Powell, and held out of order at that time as not being germane to the amendment, but that it would be entertained later.

In the meantime the previous question had been moved and ordered, but with the understanding by the mover that the amendment by Mr. Shannon was before the House. (26th, p. 1018.)

The House, by passing a bill upon the previous question which had been seconded but which had not been ordered because of the failure of the Chair to put the question, ratifies the action of the Chair.

The previous question was seconded, but not ordered, because the Chair failed to put the question, whereupon,

Mr. Morrow raised the point of order that after the motion for the previous question had been seconded, the Speaker did not put the question on ordering the previous question, and that the House should have an opportunity of voting on that question before the bill is passed to a third reading.

The Speaker overruled the point of order and stated that the Chair acknowledged the omission, but that the House had ratified the seconding of the previous question by passing the bill to a third reading by a decisive majority, and that the Chair would consider the action final.

There was no appeal from the decision of the Chair. (27th, p. 221.)

Previous question must be confined to motions actually before the House.

Mr. Smith moved the previous question on engrossment of the bill and asked unanimous consent of the House to include in this motion for the previous question all the amendments which the members may choose to send up at this time.

Mr. Hodges objected, and raised the point of order that such a motion for the previous question could not be entertained.

Sustained. (28th, p. 792.)

Can not adjourn under the previous question.

The previous question having been ordered,

A motion to adjourn was made.

Mr. Rice raised a point of order on the motion that same is not in order until the vote on which the main question is ordered is concluded.

The Chair (Mr. Glenn) sustained the point of order. (29th, called, p. 68.)

The House having ordered the consideration of the appropriation bill by departments, the previous question could not be ordered on the engrossment of the bill without rescind-

ing the order of completing the consideration of the bill.

During the consideration of the appropriation bill the House had ordered that it be considered by departments, and, while the House was considering public health and vital statistics,

Mr. Dodd moved the previous question on the engrossment of the bill.

Mr. Rice raised a point of order on the motion on the ground that the House had passed an order to reconsider the bill by departments, and that said order must first be rescinded.

Sustained. (29th, called, p. 121.)

The fact that there has not been a free and full discussion of a matter does not prevent the asking of the previous question.

Mr. Kennedy raised a point of order on the motion for the previous question, stating that inasmuch as the rules provided that full and free discussion should be allowed on all questions, and that, as this resolution had just been offered and had not received consideration in the House, the Chair should not entertain the motion for the previous question.

Overruled. (30th, p. 104.)

No motion in order while House is operating under the previous question.

Mr. Wilmeth moved to reconsider the vote by which an amendment was adopted under the previous question.

Mr. Canales raised a point of order on consideration of the motion to reconsider on the ground that the House is now acting under the previous question, and that no motion is in order until the main question is disposed of.

Sustained. (30th, p. 317.)

QUESTION OF PRIVILEGE.

A member can not abuse the Speaker under a plea of personal privilege.

Mr. Onion obtained the floor and stated that he desired to speak to a question of personal privilege.

While he was proceeding with his statement,

Mr. Duff rose to a point of order and stated that the gentleman from

Bexar, Mr. Onion, under the guise of personal privilege, was simply criticizing the Speaker of the House, and should not be allowed to proceed.

The Chair (Mr. Schluter) overruled the point of order, and in so doing stated that he had not listened attentively to the trend of the gentleman's remarks, and was not therefore prepared to pass upon the propriety or impropriety of same.

Mr. Onion then proceeded with his statement, and continuing further,

Mr. Standifer raised a point of order, and stated that the gentleman from Bexar, Mr. Onion, instead of speaking to a question of personal privilege, was denouncing the Speaker of the House for the failure of a certain bill in the House, and that the gentleman from Bexar should not be allowed to proceed unless he confined himself to a question of privilege.

The Chair sustained the point of order and the incident closed. (28th, p. 1206.)

The House has the right to arraign the author of a newspaper article reflecting unjustly on the membership.

Mr. Terrell of Travis offered the following resolution as a substitute for the motion of Mr. O'Quinn:

Resolved, That the staff correspondent of the Beaumont Journal, who is now present, and who avows himself the author of an article which reflects unjustly on the membership of this body, be arraigned by the Sergeant-at-Arms, and required at the bar of the House to purge himself of the contempt manifest in such article.

Mr. Mays raised a point of order on consideration of the motion and the pending substitute, stating that the House is entirely without jurisdiction in the matter, and that both should be out of order.

Overruled. (28th, called, p. 39.)

Is a member entitled to the floor under plea of personal privilege when he himself uses unparliamentary language?

While Mr. O'Quinn was speaking to the question of privilege,

Mr. Duff rose to a point of order, stating that the gentleman from Angelina is transcending the legitimate bounds of privilege, that he is using language himself quite unparliamentary, and asks that he be required to confine his remarks strictly to a ques-

tion of personal privilege. (28th, called, p. 39.)

QUORUM—RULES XI AND XV.

When a point of no quorum is made, the Clerk, under the direction of the Speaker, should call the roll or count the members.

Mr. Mercer raised the point that there was not a quorum present, and the Speaker directed the Clerk to count the members present.

The Clerk announced that he had counted seventy-three members in the hall, whereupon the House then adjourned until 9:30 o'clock a. m. next Monday. (26th, p. 971.)

Mr. Powell raised the point of no quorum, and the Clerk was directed to count the members present.

It was announced that there were 87 members present in the Hall, and the Chair announced the amendment adopted. (26th, p. 1032.)

A quorum of the House is two-thirds of the total members elected.

A call of the House pending for the purpose of securing a quorum, Mr. Garner inquired of the Chair how many members were present. He was informed that eighty-five members were present.

Mr. Garner then raised the point of order that there was a quorum present, one of the members having died and the House now consisting of but one hundred and twenty-seven members.

The Chair (Mr. Neff) overruled the point of order.

Mr. Seabury then raised the point of order that eighty-five members constitute a quorum of the House as constituted, and cited authorities on the subject.

The Chair overruled the point of order, and held that, under the Constitution, eighty-six members constitute a quorum to do business. (27th, p. 810.)

Can only adjourn from day to day with less than a quorum.

During a call of the House to secure a quorum, a motion was made to adjourn from Friday until Monday.

Mr. Glenn raised a point of order on the motion to adjourn until next Monday on the ground that to adjourn until next Monday would be

violative of Section 10 of Article III of the State Constitution, which reads:

"Section 10. Two-thirds of each House shall constitute a quorum to do business, but a smaller number may adjourn from day to day and compel the attendance of absent members."

The Speaker did not sustain the point of order, but the House refused to adjourn except until the next day. (29th, called, p. 12.)

Mr. McKinney moved that the House adjourn until 2 o'clock p. m. next Monday, and, there being no quorum present, Mr. Hamilton raised a point of order on the motion to adjourn until next Monday, stating that there being no quorum of the House present, the House could only adjourn from day to day, quoting Section 10 of Article III of the State Constitution.

Sustained. (30th, p. 320.)

When there is less than a quorum present it is in order for the House to take the necessary steps to compel the attendance of the absent members.

There being no quorum present, Mr. Baker moved that the Clerk furnish the Sergeant-at-Arms with the names of members absent without leave, and that the Sergeant-at-Arms be directed to bring enough of the members to make a quorum.

Mr. McKenzie raised a point of order on the motion, stating that it was not competent to transact business without a quorum present.

Overruled. (30th, p. 1176.)

"No quorum" point of order fully discussed.

Mr. Lane here rose to a point of order, and stated that in his opinion there was not a quorum present, and asked that the roll be called to ascertain the presence of a quorum.

The Chair overruled the point of order, stating that there was nothing in the record showing that there was not a quorum present, whereupon Mr. Lane filed the following memoranda:

"Mr. Speaker: I make the point of order that the appointment of a Free Conference Committee on House bill No. 7, known as the "Intangible Assets Bill," is illegal and void, and of no force and effect, and all acts of the House of Representatives of the Thirtieth Legislature,

First Called Session, thereafter the motion above referred to, are illegal and void, and of no force and effect, and in support of this contention I desire to file the following statement of facts:

The gentleman from McLennan, Mr. Kennedy, made a motion that the House refuse to concur in the Senate amendments to House bill No. 7, and asked the House to grant a Free Conference Committee. The gentleman from Montague, Mr. Cable, moved as a substitute that the House do concur in the Senate amendments, and in support of his substitute addressed the House. On the motion of the gentleman from Montague the yeas and nays were demanded by three or more of the members, one of which was myself. The roll of the membership of the House was called and it developed no quorum. A list of those not voting was twice called in order to develop a quorum, and at the end of each call there was still no quorum. And the fact that there was no quorum was well known to the Speaker and every member of the House who was present and answered to his name. In order that the Speaker might not be forced to make the official announcement of no quorum present, the various members present, including the gentleman from Bell, Mr. Robertson, the gentleman from McLennan, Mr. Stratton, and the gentleman from Potter, Mr. Bowman, importuned the gentleman from Montague, Mr. Cable, to withdraw his demand for the yeas and nays, for the reason that the roll call had developed no quorum. Whereupon the gentleman from Montague, Mr. Cable, did withdraw his demand for the yeas and nays over the protest of myself, who was one of the members who joined in the demand for the yeas and nays. In answer to an inquiry from myself, the Speaker held that the gentleman from Montague had the right to withdraw his demand for the yeas and nays over the protest of myself, who had previously joined him in the demand for the yeas and nays. I immediately made the point of order that there was no quorum present, and the Speaker overruled the point of order, saying that the roll call had not been announced and the point of order was not well taken. I again made the point of order that there was no quorum present, and asked that my point of order be made a

part of the record, and again the Speaker overruled my point of order and informed me that the point of order would be placed on record, and at the suggestion of the gentleman from Hunt, Mr. Hamilton, informed me that his overruling my point of order would also be placed on record. For the third time I made the point of order that there was no quorum present, and that the House was transacting business without a quorum, and inquired of the Speaker if there was no means by which I could verify my assertion that there was no quorum present. For the third time the Speaker overruled my point of order and informed me that he knew of no way to ascertain the presence of a quorum except by a roll call. I then demanded a roll call to ascertain the presence of a quorum, and was ignored by the Speaker.

"I take the position that whatever the records may be made to show, that there was in fact no quorum present, and that this fact was known to both the Speaker and the members present, and that the House was acting in violation of both its own Rules and the Constitution of the State of Texas, and as a result its acts are of no force and effect and null and void." (30th, called, p. 345.)

When a point of no quorum is made, the Chair should order a roll call or take such other means as deemed best in his judgment to ascertain whether or not a quorum is present.

Mr. Caves raised a point of order on further consideration of the bill on the ground that there was no quorum present.

The Clerk was directed to call the roll and a quorum was announced present. (31st, p. 908.)

Mr. Cox raised a point of order that there was not a quorum present.

The Clerk was directed to call the roll, and a quorum was found not to be present. (31st, p. 957.)

QUORUM—CALL OF THE HOUSE.

Less than a quorum has the authority to issue warrants of arrest for those who, although not members of the House, prevent the of-

ficers of the House from securing the attendance of absent members.

An Assistant Sergeant-at-Arms reported that porters had prevented him from entering the opera house, for the purpose of apprehending absent members.

Mr. Thurmond moved that the Sergeant-at-Arms be directed to bring the offending parties to the bar of the House, that warrants be issued for arrest of same and that he be authorized to summon such assistance as might be necessary.

Mr. Satterwhite raised the point of order that, with less than a quorum, the House could not take any action except to adjourn or to obtain a quorum, and that the motion of Mr. Thurmond was not in order.

The Speaker overruled the point of order, stating that the person obstructing execution of the processes issued by authority of the House might thereby be preventing the obtaining of a quorum. (27th, p. 812.)

Cannot force excused members to attend.

Under the call of the House, Mr. Napier moved that the Speaker and the Sergeant-at-Arms wire all absent members to report at 9:30 tomorrow morning.

Mr. Cobbs raised a point of order on the above motion of Mr. Napier, in so far as it may apply to members who are absent with leave for tomorrow.

Sustained. (28th, called, p. 12.)

RECESS.

A recess cannot be had when a quorum is not present.

Mr. Brelsford moved that the House take a recess to 10 o'clock a. m. next Monday, upon which motion yeas and nays were demanded.

While the Clerk was proceeding with the roll call,

Mr. Hendricks raised a point of order on consideration of the motion, stating that the last roll call having developed the want of a quorum, a motion for a recess is not in order, but that it is in order to entertain a motion to adjourn.

Sustained. (28th, called, p. 92.)

The House having recessed does not displace the business of the day; nor does it require the consideration of postponed or special orders set for the calendar day to which the House recessed.

Mr. Gilmore raised a point of order on further consideration of the bill at this time, for the reason that the House should take up House Joint Resolution No. 10, the same having been postponed on last Friday until Tuesday, March 2, at 2 o'clock p. m.

The Speaker overruled the point of order, stating that the House having recessed on yesterday until today, the present proceedings are a continuation of Monday's session of the House. (31st, p. 676.)

RECONSIDERATION—RULE XIV.

If the House, while a motion to reconsider is upon the Journal, takes up and passes a bill, that disposes of the motion to reconsider.

A bill may be taken up and considered on final passage, notwithstanding a motion to reconsider has been put on the Journal and not acted upon.

Mr. Henderson of Lamar then raised the point of order that it is not proper to take up a bill and consider it on its third reading and final passage while a motion to reconsider the vote by which it passed the third reading is on the Journal and not disposed of.

Overruled. (26th, p. 755.)

Notice to call up a motion to reconsider must be given as required by the Rule.

An effort was made to call up a motion to reconsider.

Mr. Kennedy raised a point of order that notice of intention to call up a motion to reconsider as required by the Rules has not been given, and that, therefore, the motion to reconsider can not be called up until proper notice is given.

Sustained. (26th, p. 755.)

The ordering of the main question can be reconsidered.

Mr. Bridgers, by consent, moved to reconsider the vote by which the

House had ordered the main question.

Mr. Powell raised the point that it was not in order to entertain a motion to reconsider a vote ordering the main question, and stated that House Rule No. 46 is plain and precludes any motion whatever, and that House Rule No. 55 so shows.

Overruled.

Mr. Lane appealed from the ruling of the Chair, and the House sustained the Chair. (26th, p. 1220.)

The House had adopted a resolution providing for the election of its officers, among them a Chaplain. All of the officers preceding the Chaplain had been elected and when that office was reached,

Mr. Dean offered a resolution to accept an offer made by the pastors of Austin to perform the duties of Chaplain of the House without cost and to "dispense with the office of Chaplain."

Mr. Henderson of Lamar, joined by Mr. Kennedy of Limestone, raised a point of order that the resolution sought to change the order of business established by a resolution of the House, which could be done only by a two-thirds affirmative vote; and furthermore, that after disposing of a portion of the resolution, that a motion to rescind would first have to prevail; therefore, that a resolution was out of order.

Overruled.

But the House tabled the resolution. (27th, p. 11.)

Mr. Hogsett raised the point of order that a second motion to reconsider was not in order, and that the former action on the bill should be considered final.

The Speaker overruled the point of order, and stated that inasmuch as the House had made some progress on the bill after its first reconsideration, the latter motion to reconsider was in order. (27th, p. 278.)

(Note: The Journal shows that both Mr. Hogsett and the Speaker were mistaken, i. e., the bill was in the possession of the Senate when the first motion to reconsider was made, hence, that act was void.—Editor.)

Member must have voted with the prevailing side or he can not move reconsideration.

Mr. Calvin raised the point of order on the motion made by Mr. Duff, stating that under the rules of the House the motion was not in order, the gentleman from Jefferson having voted with the minority, as shown by the roll call.

Sustained. (28th, p. 407.)

During the last three days of the Session all motions to reconsider must be disposed of when made.

Mr. Love called up a motion to reconsider that had been laid on the table subject to call.

Mr. Napier raised the point of order on consideration of a motion to reconsider, stating that under said rule a motion made during the last three days of the session must be disposed of when made.

Sustained.

Mr. Duff spoke to the point of order and appealed from the ruling of the Chair.

The House sustained the ruling of the Chair. (28th, p. 1160.)

The House having fixed the number of Clerks, a resolution to appoint five additional Clerks is not in effect a reconsideration of the original resolution.

Mr. Witcher offered a resolution reciting that, whereas, the Clerks that have been discharged were discharged without any chance whatever to hold their positions and that the resolution was not carried out as passed by the House; and as it is now it casts a reflection upon the ones who were efficient and faithful,

Therefore, resolved, that the Speaker be and he is hereby authorized to appoint five additional clerks to serve this House during this Called Session.

The resolution was read a second time.

Mr. Moran raised a point of order on consideration of the resolution, stating that it was in the nature of a reconsideration of the vote on the resolution adopted yesterday, relative to committee clerks, and therefore should not be entertained.

Overruled. (28th, Called, p. 25.)

The previous question will not apply to a motion to reconsider and table.

A bill was passed under the previous question. The vote by which it passed was reconsidered and pending the vote after reconsideration, a motion was made to adjourn.

Mr. Brelsford raised a point of order on the motion to adjourn, stating that the House acting under the previous question, it is not in order to entertain a motion to adjourn until the previous question is exhausted.

The Chair overruled the point of order, stating that the previous question extended no further than the final passage of the bill, and could not operate on motion subsequently made, as in this case, the motion to reconsider and table, which, furthermore, being undebatable, can not take the previous question under any circumstances. (29th, p. 169.)

If a bill be reconsidered and amended and passed, it can again be reconsidered.

Mr. Kennedy raised a point of order on the ground that one reconsideration of the bill was had and the bill lost.

The Chair overruled the point of order, stating that the bill was amended on its reconsideration, and therefore, under the rules, is subject to a motion to reconsider. (29th, p. 1071.)

When a motion to reconsider is put and carried the proposition which is reconsidered becomes the pending business.

During the morning call, while the House was under the head of "Routine Motions," the vote by which an amendment was adopted was reconsidered.

Mr. McKenzie raised a point of order on consideration of the pending amendment and substitute therefor on the ground that the order of business before the House is "Routine Motions," and the motion to reconsider being of that nature and having been disposed of, it is not in order to consider the amendment, said consideration being in effect to bring up the whole bill before the House.

Overruled. (30th, Called, p. 135.)

The fact that when a Senate bill finally passes the House, after hav-

ing been amended by the House, and that a motion to reconsider the vote by which the bill finally passed was laid on the table, does not stop the House from receding from its amendments to the bill.

Mr. Brown of Wharton raised a point of order that neither motion is now in order, for the reason that when the bill passed the House the vote by which the bill passed was reconsidered and tabled, and that it is not now in order to take it up again.

Overruled. (30th, Called, p. 390.)

The author of a proposition should not be permitted to move a reconsideration if the motion is lost, unless the record shows affirmatively that he voted against the measure.

Mr. Jennings raised a point of order on the motion to reconsider on the ground that Mr. Ray, being the author of the substitute, it is not in order for him to move to reconsider the vote by which the same was lost.

Sustained.

To make a motion to reconsider one must have voted with the prevailing side.

Mr. Johnson, having voted for a motion which was lost, moved for reconsideration.

Mr. Standifer raised a point of order on consideration of the motion to reconsider on the ground that the gentleman from Galveston (Mr. Johnson) could not make a motion to reconsider, for the reason that he voted with the losing side.

Sustained. (31st, p. 906.)

RESCINDING.

Mr. Childs raised the point of order that a motion to rescind is out of order, as it would virtually abrogate Rule 36 (now Rule 14) of this House, which provides for the reconsideration of all matters adopted by the House, and that the motion must be made by a member of the majority or prevailing side, and must be made on the same or the next sitting day, and that one day's

notice must be given before the motion can be called up and disposed of. This motion to rescind is but another method of reconsideration, and is now made by the party voting with the losing side, and several days after the House adopted the amendment which he proposes to rescind. It establishes a dangerous precedent.

The Speaker stated that as the Chair was in doubt, he would not rule upon the point of order, but would let the matter be submitted to the House to decide.

And the House rescinded by vote of 57 to 46. (26th, p. 689.)

Motion to rescind not in order when the motion to reconsider the vote by which the proposition was adopted was tabled.

Mr. Murray of Wilson moved that the vote whereby the pages were all discharged be rescinded.

Mr. Middlebrook raised a point of order on the motion to rescind, stating that it is in the nature of a motion to reconsider, and therefore, is not in order, since the vote by which the resolution was adopted was reconsidered and tabled.

Sustained. (28th, p. 21.)

House never loses its control over its rules.

Mr. Marsh raised the point of order that a motion to rescind being in the nature of a motion to reconsider and that as the vote by which the resolution was adopted had been reconsidered and tabled, the motion to rescind is not in order and should not be entertained by the Chair.

The Speaker overruled the point of order and in making the ruling said:

"The Chair holds that the motion to rescind is in order. The House never loses control over its rules, standing or special orders, and the management of its business, and can at any time rescind its orders and rules concerning same. The tabling of a motion to reconsider the vote by which such rule or order was adopted or fixed, does not take away the control of the House over such matters, which by their very nature are continuing in effect and subject to change whenever the policy of

the House may change in regard to them." (29th, p. 26.)

Mr. Moran raised the point of order that as the substitute opens up the whole question, it is essentially the same as a motion to reconsider and should not be entertained for the reason that it would have the tendency to abrogate the force and effect of the motion to reconsider and table, since the vote by which the resolution was adopted had been reconsidered and tabled.

The Speaker overruled the point of order, making substantially the same statement as in the foregoing ruling. (29th, p. 26.)

If it is desired to recede from the adoption of a free conference committee report, the proper motion is to "rescind" and not to "reconsider."

Mr. Byrne having made a motion to reconsider the vote by which the House adopted the report of a Free Conference Committee,

Mr. Robertson of Bell raised a point of order on consideration of the motion to reconsider the vote by which the bill was passed, stating that the proper motion is to rescind the vote by which the report of the Free Conference Committee was adopted.

Sustained. (31st, p. 710.)

RESOLUTIONS.

(Rules 16-18 and 21.)

Because a resolution or bill is similar to any other bill or resolution pending, does not prevent its consideration.

Mr. Kennedy offered a resolution that the House take a recess from next Wednesday afternoon until Friday morning at 9:30.

Mr. Childs raised the point that the resolution is not in order for the reason that a similar resolution is now pending in the House, and this should not be entertained until the other is disposed of.

Overruled. (26th, p. 383.)

House can not by simple resolution rescind its acts in adopting a concurrent resolution.

The House had adopted a Senate resolution to adjourn and a simple resolution was pending, rescinding said action and asking the Senate to return said concurrent resolution.

Mr. Clements raised the point of order that the resolution being a simple resolution and proposing to rescind the action of the House adopting a concurrent resolution, it is therefore not in order.

Sustained. (27th, p. 990.)

Resolutions can only be considered during the time set apart for their consideration.

The House resumed consideration of the pending question, same being, Shall Senate Concurrent Resolution No. 1 pass?

Mr. Moran raised a point of order on further consideration of the resolution, stating that the time allotted (one-half hour) under the rules for consideration of resolutions had expired.

The point of order was sustained, and the resolution went to the Speaker's table. (28th, Called, p. 49.)

(Note: Rule 21 provides that resolutions filed with the Clerk and resolutions offered from the floor shall be considered for half an hour unless sooner disposed of. The points of order made on this plain rule are simply too numerous to mention here.—Editor.)

Rules may be suspended for the consideration of a resolution.

It being Monday, Mr. Duncan moved to suspend the rules relative to the consideration of resolutions that he might offer a resolution.

Mr. Hamilton raised a point of order on the motion for the reason that the Duncan resolution did not come within the meaning of the rule.

Overruled. (30th, p. 167.)

A resolution having been read once under a suspension of the rules, it is within the province of the House to have it read a second time.

Mr. Baskin raised a point of order on consideration of the motion for a second reading of a resolution offered under a suspension of the rules, and stated that it should not

be entertained for the reason that the rules had been suspended simply for the purpose of having the resolution read the first time.

The Speaker overruled the point of order and stated that it was entirely within the province of the House to have the resolution read second time if it is so desired. (30th, p. 168.)

A resolution may be withdrawn at the pleasure of the author.

Mr. Cobbs then withdrew the resolution from further consideration of the House.

Mr. Jenkins raised a point of order on the withdrawal of the resolution, stating that the resolution is the property of the House and should not be withdrawn without the consent of the House.

The Speaker overruled the point of order and on appeal the House sustained the Chair. (30th, p. 170.)

A resolution expressing thanks for courtesies shown the members of the House is in order, regardless of the fact that many members did not participate in the courtesies.

To a resolution expressing thanks to the people of Fort Worth and Gainesville for courtesies shown the membership while on an excursion to said cities, Mr. Bogard raised a point of order on the ground that it carried the presumption that the whole House went on the excursion to Fort Worth, and Gainesville also, when in fact many did not go.

Overruled. (30th, p. 1088.)

For good and sufficient reasons the House may criticize a former member of the House and a resolution to that effect was held to be in order.

A sarcastic resolution answering the criticisms of a former member of the House was offered.

Mr. Cobbs raised a point of order on consideration of the resolution, stating that the Chair should hold it out of order for the reason that it is not a proper matter for consideration of the House, and that it is not in good taste to have the same placed upon the Record.

Overruled. (30th, Called, p. 28.)

A resolution offered by unanimous consent must be read first time.

Mr. Bryan having obtained unanimous consent to offer a resolution and the Clerk was reading the resolution,

Mr. McConnell obtained the floor, rising to a point of order and moved that further reading be suspended. Mr. Carswell moved to lay the motion on the table, whereupon the point of order was made that, the resolution being offered by unanimous consent, the reading should be concluded without interruption, which was sustained, and the Clerk proceeded to read the resolution. (30th, Called, p. 261.)

Resolution covering the same matter as one previously voted down is not in order.

A resolution providing for the election of Warrant Clerk pending.

Mr. Gaines raised a point of order on consideration of the resolution for the reason that the House had already voted down a resolution covering the same subject matter.

Sustained. (31st, p. 70.)

On Senate day the consideration of no bill is in order until Senate bills or Senate resolutions have been disposed of.

House was considering a simple resolution on Senate bill day.

Mr. Gaines raised a point of order on further consideration of the resolution on the ground that the resolution was postponed until Wednesday, and Wednesday being Senate bill day, the Senate bills have precedence of any postponed matter, and, therefore, objection being made, it is out of order to consider any postponed matter other than Senate bills.

The Speaker held the point of order well taken. (31st, p. 587.)

RESOLUTIONS—HALF HOUR.

(Rule 22, Section 1, Par. 5.)

Instance where it was held that resolutions could not be taken from the Speaker's table except during

hour set apart for consideration of resolutions.

March 5, 1901, Mr. Ragland asked to have taken from the Speaker's table and laid before the House for consideration the Phillips resolution inviting Mrs. Carrie Nation of Kansas to address the House. (This resolution was introduced on February 26th, and had gone to the Speaker's table.)

Whereupon, Mr. Walker raised the point of order that the time for consideration of resolutions had expired.

Sustained. (27th, p. 586.)

A resolution for a committee of the House to visit those sections of the State where the public school lands were located for the purpose of investigating the conditions of the land situation as between the actual settler and the cowman, making report to the House of such conditions, was held to come within the half hour rule.

Mr. Isaacks raised the point of order on its further consideration at this time, stating that the time allotted under the rules for consideration of resolutions had expired.

The point of order was sustained, and the resolution went to the Speaker's table. (28th, p. 703.)

Pending consideration of a resolution,

Mr. Shannon raised the point of order on its further consideration today, stating that the time allotted under the rules for consideration of resolutions had expired.

Point of order was sustained and the resolution went back to the Speaker's table. (28th, Called, p. 69.)

Does a resolution requiring Conference Committee to do certain things come within the half hour rule?

Mr. Green offered a resolution requesting the Free Conference Committee on appropriations to itemize the appropriation bill.

Pending consideration of the resolution,

Mr. Hancock raised a point of order on further consideration of the resolution at this time, stating that the time allotted under the Rules

for consideration of resolutions had expired.

The point of order was sustained, and the resolution went to the Speaker's table. (28th, Called, p. 185.)

A resolution having gone to the Speaker's table is not subject to half hour rule.

Mr. Kennedy raised the point of order that the half hour allotted under the rules for consideration of resolutions had expired, and that the resolution should go over.

The Chair overruled the point of order, holding that, the resolution having gone to the Speaker's table yesterday, it occupied the same position as other matters on the Speaker's table, and was subject to consideration until disposed of. (29th, p. 187.)

Resolution providing for the investigation of United States Senator Bailey comes within half hour rule.

Mr. Kennedy then raised a point of order on further consideration of the resolution at this time, on the ground that the half hour set aside under the rules for consideration of resolutions had expired.

The Chair sustained the point of order, and the resolution went to the Speaker's table. (30th, p. 40.)

Instance where it was held that resolutions could not be entertained by unanimous consent except during the half hour.

The Chair had, by unanimous consent, permitted the introduction of several resolutions after the half hour had expired, whereupon,

Mr. Kennedy raised the point of order that the time set aside by the Rules for consideration of resolutions had expired, and that the Chair should not entertain another resolution.

Sustained. (30th, p. 92.)

Instance where a resolution seeking information for the House pertaining to a pending special order was held to come within the rule.

A resolution requesting the Attorney General to furnish papers, letters and books tending to throw any light upon questions arising upon a resolution for investigation pending

as a special order in the House in regard to the relations between Senator Bailey and the Waters-Pierce Oil Co. was pending.

Mr. Kennedy at this juncture raised the point of order that the time set aside under the Rules for consideration of resolutions had expired and that the Chair should not entertain resolutions any further.

Sustained. (30th, p. 108.)

Half hour for resolution may be extended.

Mr. Duncan offered a resolution during the consideration of which Mr. Camp raised the point of order that the time allotted for the consideration of resolutions had been consumed and that the resolution should go over until tomorrow.

Sustained.

Mr. Kennedy then moved that the time for consideration of resolutions be extended for thirty minutes, which motion prevailed. (30th, p. 137.)

Held that a resolution on the Speaker's table is subject to the half hour rule.

A resolution relating to platform demands read on the 5th day of April, 1905, went to the Speaker's table and on the 9th day of April, pending its consideration, Mr. Ray raised a point of order on further consideration of the resolution at this time on the ground that the time set apart under the rules for consideration of resolutions had expired.

The Speaker sustained the point of order, and the resolution went to the Speaker's table. (30th, p. 1412.)

Resolutions affecting the perquisites of the members not exempt from half hour rule.

A resolution providing that each member of the House be allowed \$10, or so much thereof as each member may use, for telegrams and long distance telephones, was pending.

Mr. Bell raised the point of order on the further consideration of the resolution at this time on the ground that the time provided in the rules for the consideration of resolutions had expired.

Sustained. (31st, p. 73.)

Resolution to rescind former action comes within the half hour rule.

The House having passed a resolution permitting the members of the Faculty of the State University to accept pensions or donations from Andrew Carnegie, Mr. Strickland, on a subsequent day, offered a resolution providing that the House rescind its action giving the Faculty of the State University the permission to accept pensions from Andrew Carnegie.

Mr. Mobley raised the point of order on further consideration of the resolution at this time for the reason that it was not privileged and could only be considered during the morning call.

Sustained. (31st, p. 889.)

RESOLUTIONS NOT IN ORDER.

A resolution containing an undue reflection on the House not in order.

To a sarcastic resolution criticizing in a measure the House for not adjourning on Washington's birthday, Mr. Dean raised a point of order on the ground that it was an undue reflection upon this House and should not be considered.

Sustained. (30th, p. 622.)

Resolution to appoint a committee to secure information as to the benefits to be derived by the people by reason of the defeat of certain legislation, held not in order.

Mr. Bryan, by unanimous consent, offered a resolution in the House May 8, 1907, Whereas in that the House and Senate having refused to take up for consideration the two cent fare bill, and alleging that the defeat of the bill had been urged upon the ground that what the people most desired and needed was a reduction in freight rates for the benefit of the farmers and other toiling citizens, and assumed that these assurances were made in good faith; that the farmers and other citizens of the State were anxiously awaiting information as to the extent of the reduction to be made in view of the failure of the bill, and declaring that the people were entitled to know and the members of the Legislature were entitled to have the people know how much the Legislature saved the people in freight rates by defeating

the bill. Said resolution proposed the appointment of a committee by the Speaker to interview the representatives of the various railroads and ascertain from them the amount of reduction to be made in freight rates in view of the defeat of the bill, and to know when said reduced rates would be put into effect, and much other information of like import.

The Chair declared the resolution out of order. (30th, Called, p. 261.)

RESOLUTIONS—PRIVILEGED.

A resolution fixing the sine die adjournment privileged.

During the consideration of a resolution fixing the date of a sine die adjournment, the time expired for which a special order was postponed (set aside) and the Chair was about to lay the special order before the House when

Mr. Robertson raised the point of order that the resolution to adjourn sine die is a question of the highest privilege and should take precedence over even a special order and that the same should now be the question before the House.

Sustained. (29th, p. 689.)

A resolution setting apart days on which the House shall accept the invitation of the Cattle Raisers' Association to be the guests of Fort Worth, was held to be a privileged resolution.

Resolution being considered, Mr. Mobley raised a point of order on consideration of same at this time on the ground that it is not a privileged motion.

Overruled. (31st, p. 1043.)

RIGHTS OF MEMBERS.

A resolution reflecting upon a member of the House held not in order.

A substitute to a pending resolution had been offered which reflected upon a member of the House.

Mr. Crisp raised a point of order on consideration of the substitute on the ground that it carries an un-

necessary reflection upon a member of the House, and is an infringement upon the dignity and privileges of the House.

The Speaker held the point of order well taken. (30th, p. 377.)

RULES—AMENDING THE

(See Rule 28.)

Held that a proposition to vote on amendments to the Appropriation bill until disposed of, without discussion, not amendment to the rules.

Mr. McDowell offered this resolution:

"Resolved, That the House of Representatives, at 11 o'clock a. m., Monday, May 1, 1899, proceed to vote on the pending University amendments to Substitute House Bill No. 111, and continue to vote on any and all amendments and substitutes until they are disposed of without discussion on same."

Mr. Bailey raised the point of order that the resolution was in the nature of a proposition to amend the rules, and must lie over one day.

Overruled. (26th, p. 1142.)

(Note: This ruling is clearly erroneous.—Editor.)

Held that a resolution to take up a bill and consider it from day to day until disposed of is not an amendment to the rules.

Mr. Childs offered this resolution:

"Resolved, That we take up the anti-trust bill now, and continue its consideration from day to day until it is finally disposed of."

Mr. Lane made the point of order, that by a resolution adopted by this House, Wednesday and Thursday evenings of each week were set aside for the consideration of Senate bills, and the remaining time for the consideration of House bills. Section 54 of the Rules of the House provides that no standing rules or order of the House shall be rescinded or changed without one day's notice being given of the motion thereof.

Overruled. (26th, p. 1289.)

Resolution relating to the filing of resolutions held an amendment to the rules.

Mr. Lane proposed a resolution providing that "all bills and joint resolutions shall first be filed with the Reading Clerk, who shall number, file and read the same in the order in which they are handed in."

Read second time, and Mr. Seabury raised the point of order that the resolution seeks to amend the rules of the House, and can not be entertained under the rules, without one day's notice being given thereof.

The point of order was sustained and the resolution went over. (27th, p. 14.)

Is an addition to the rules an amendment?

Mr. Neff proposed a resolution providing for the erection of a railing at the rear of the Hall and defining the duties of the officers in relation thereto.

Mr. Henderson of Lamar raised the point of order that the resolution was in the nature of an amendment to the rules, and therefore should go over one day; and further stated that the rules of the House, if enforced, fully covered the matter embraced in the resolution.

The Speaker overruled the point of order and stated that the resolution was designed to be simply in furtherance of the rules and not amendatory. (27th, p. 250.)
(Note: This decision was clearly wrong.—Editor.)

A resolution covering a subject already embraced in the rules or orders of the House is not in order.

Mr. Gray moved that the lobby be removed to the galleries and the desks so arranged as to reserve for the members the exclusive use of the Hall.

Mr. Napier raised the point of order that the resolution is unnecessary since the rules, if enforced, cover the same subject.

Sustained by the Speaker, who stated that any member had the right to call for strict enforcement of the rules. (27th, p. 625.)

Resolution setting apart Friday of each week to consider revenue raising bills, an amendment to the rules.

Mr. Beaty offered a resolution setting apart Friday of each week for the consideration of revenue-providing bills.

Mr. Seabury raised the point of order that the resolution seeks to amend the rules, and that as the proper notice had not been given, it should go over one day.

The Chair sustained the point of order, and the resolution went to the Speaker's table. (27th, p. 730.)

Invitation to a person to address House not an amendment to the rules.

Pending resolution to invite Governor Hogg to address the House, Mr. Grisham raised a point of order on further consideration of the resolution, stating that it is in the nature of an amendment to the Rules, and, therefore, should be referred to the Committee on Rules.

Overruled. (28th, p. 643.)

Proposition to set apart Tuesday and Wednesday to consider House bills on third reading held not to be an amendment to the rules.

Mr. Byrne moved to set apart Tuesday and Wednesday mornings of this week for the consideration of House bills on third reading.

Mr. Kennedy raised a point of order on consideration of the resolution on the ground that it proposed to amend the rules and should go to the Committee on Rules.

Overruled. (29th, p. 946.)
(Note: This is in conflict with the present rules of the House. See Section 6, Rule 28.—Editor.)

Proposition to determine by drawing the names of members from a hat who should secure recognition to call up bills, an amendment to the rules and referred; notwithstanding the resolution provided that it should not be referred.

Mr. Cobbs offered the following resolution:

"Resolved, That suspension day be set apart, first, to Senate bills on third reading and House bills on third reading, then to such measures of suspension which would otherwise come up on suspension day; provided, on suspension day for taking up general bills the Speaker shall not recognize any member whose name has not been drawn in the following manner: The Clerk shall place the name of each member in a hat, shake them up and from time to time, without looking in the hat, and in the presence of the Speaker

and entire House, draw the name of some member, whom the Speaker shall recognize, and such member may call up any bill or yield his right so to do to some other member; that this resolution shall not be referred to any committee, but be spread on the Journal and taken up for action on next Friday, or such time as it may then or thereafter be called up for action."

Mr. Kennedy raised a point of order on consideration of the resolution on the ground that it is in fact a proposition to amend the rules and should go to the Committee on Rules.

The Chair sustained the point of order and the resolution was referred to the Committee on Rules. (29th, p. 978.)

Resolution that House Bill No. 302 be promptly taken up and considered during this Regular Session, held not an amendment to the rules, but merely expresses an intention, which, if adopted, would bind the House to nothing.

Mr. Cranke offered the following resolution:

"Whereas, Unless the ad valorem tax is increased, the finances of this State will be in a deplorable condition, and it is important that immediate and prompt action be taken; therefore, be it

"Resolved, That House bill No. 302 be promptly taken up and considered at this Regular Session."

Mr. Kennedy raised a point of order on consideration of the resolution on the ground that it is amendatory of the rules and should go to the Committee on Rules.

The Speaker overruled the point of order saying: "This resolution involves no change or even suspension of the rules. It merely expresses a desire or intention, which the House is asked to approve, and, if adopted, would bind the House to nothing." (29th, p. 1218.)

Amendment to the rules must be referred to the Committee on Rules.

A resolution declaring that it would not be in order for the Speaker to entertain a motion to extend the time of a member on the floor was pending.

Mr. Hamilton raised the point of order that the resolution being a proposition to amend the rules, it should be referred without debate to the Committee on Rules.

The Chair sustained the point of order. (30th, p. 1286.)

RULES—COMMITTEE.

It is within the province of the Committee on Rules to propose a resolution to the House for its consideration.

Pending before the House was the report of the Committee on Rules which proposed a resolution providing for the erection of a railing in the rear of the House, separating the lobby from the desks of members.

Question—Shall the resolution be adopted?

Mr. Duff raised a point of order on the consideration of the resolution and stated "that the matter covered by the resolution was not within the apparent jurisdiction of the committee, and that the resolution had not otherwise been moved in the House; nor referred to the committee; that the committee had no authority voluntarily to propose a resolution not pertaining to either the rules of the House, the joint rules, or the rules of order."

Overruled. (28th, p. 87.)

ENFORCING RULES.

Mr. Fuller offered a resolution requesting the Speaker to strictly enforce the rules against lobbying.

Mr. Gilmore raised a point of order on further consideration of the resolution on the ground that it should properly be referred to the Committee on Rules.

Overruled. (31st, p. 517.)

SUSPENSION OF CONSTITUTIONAL RULE.

On the suspension of the Constitutional rule requiring bills to be read on three several days, the vote was 99 to 1.

Mr. Mears raised a point of order on the announcement of the Chair, stating that Section 9 of Rule XIX requires that it shall take a four-fifths majority of all members elected to the House to suspend the Constitutional rule and place a bill on another reading, and that 107 is a four-

fifths majority of the House; therefore, the motion has failed.

The Speaker overruled the point of order.

Mr. Brown of Wharton appealed from the ruling of the Chair.

The House sustained the ruling of the Chair.

The following authorities were submitted to support the ruling of the Speaker:

Cooley on Constitutional Limitations, 7 Ed., p. 201.

State v. McBride, 4 Mo., 303.

Fellson v. Meehan, 21 La. Ann., p. 79.

Zila v. Central Railway, 84 Mo., 304; 34 L. R. A., 469; Amer. Enc. of Law, Vol. 15, p. 772.

Day v. State, 68 Texas, 544.

Wm. Green v. Miller, 32 Miss., 650.

Southworth v. Railway, 2 Mich., 287.

State v. McBride, 29 Amer. Dec., 636-6.

Yeas and nays were demanded, and the House sustained the Chair.

These authorities sustain the contention that a four-fifths vote means of those present, a quorum being present, and not four-fifths of the total membership of the House. (30th, p. 1388.)

The rules having been suspended to take up a bill, it must be disposed of before another bill can be taken up.

The House had suspended the rules to take up for consideration House bill No. 5, and, while the House was considering the bill, Mr. Moore moved to suspend the rules and take up House bill No. 96.

Mr. Briggs raised a point of order on consideration of the motion to suspend on the ground that it is not in order to entertain a motion to suspend the pending business until the matter before the House, which is House bill No. 5, on its second reading, and which was taken up under a motion to suspend the regular order of business, is disposed of.

Sustained. (30th, Called, p. 273.)

SENATE BILL DAY.

Only Senate bills can be considered on those dates.

Mr. Lane raised the point of order that it is not proper to take up and consider a House bill today, since the

two Houses had passed a concurrent resolution setting apart certain days for consideration of bills coming from the other House until such bills are disposed of.

Mr. Shropshire also raised the point of order

1. That the rules provide that local bills be considered on Saturdays.

2. That a concurrent resolution adopted by both Houses has set apart Wednesdays and Thursdays for the consideration of bills coming from the opposite house, and that it would not be proper, without consent of the Senate, to consider House bills on these days as long as there are Senate bills in the House not disposed of.

The Speaker held that the first point of order was not well taken, but sustained the second and that raised by Mr. Lane. (26th, p. 836.)

Senate bills have right of way on Senate bill day.

House bill was being considered on Senate bill day.

Mr. Crockett of Mitchell raised a point of order on further consideration of the bill at this time, for the reason that today being set apart under the rules of the House for the consideration of Senate bills, it is not in order to consider this bill at this time.

Sustained. (31st, p. 706.)

SUBSTITUTES.

The fact that a section of a bill has been previously amended, does not prohibit the offering and consideration of other amendments to the same section.

Mr. McKenzie raised a point of order on consideration of the amendment by Mr. James on the ground that it is not germane for the reason that the department of the bill that the amendment seeks to amend has been substituted by an amendment by Mr. Murray of Wilson, just adopted, and that the pending amendment can not be made to apply to certain lines by numbers, etc.

The Speaker overruled the point of order and stated that the amendment, should it be adopted, could be properly identified in engrossment of the bill. (29th, Called, p. 107.)

SUBSTITUTES—GERMANE.

A House concurrent resolution, fixing the date of final adjournment to a day certain was pending.

Mr. Clements offered the following substitute:

"Resolved, That it is impractical to set a day for final adjournment before the general appropriation bill is signed by the Governor."

Mr. Henderson of Lamar raised the point that the substitute was not germane and that, therefore, it was not in order.

Overruled.

Mr. Henderson of Lamar appealed and the House sustained the ruling of the Speaker. (26th, p. 95.)

Mr. Duff offered the following resolution:

"Resolved, That the true intent and meaning of Section 1, Rule XXVIII, of the House of Representatives authorizes the issuance by the members, of tickets of admission to the House to any named person or persons, good for such length of time during the present session as shall be designated thereupon, by the member issuing the same, and the said rule shall be effective according to this construction."

The resolution was read second time, and

Mr. Connally offered the following amendment:

"Amend by adding 'all invitations revokable at the will of the House.'"

The amendment was accepted.

Mr. Reese offered the following substitute for the resolution:

"Resolved, That every member of this House be accorded the right to state on invitation cards the time for which any named party is invited to the floor of this House, and that the party so named shall be admitted by the Doorkeeper for the full time mentioned on said cards; provided, such invitations shall not exceed one week in time."

Mr. Duff raised a point of order on consideration of the substitute, stating that it was not germane to the question before the House in that it sought to amend the rule, when the resolution before the House sought to interpret Section 1 of Rule XXVIII.

Overruled. (28th, p. 211.)

SUBSTITUTES—NOT GERMANE.

Mr. Decker offered as a substitute for the McFall resolution, the following:

"Resolved by the House of Representatives, That we here now declare our confidence in the honor and integrity of the Hon. Joseph W. Bailey and Attorney General Smith in their private life and in the discharge of their official duties."

Mr. McFall raised the point of order that the substitute offered by Mr. Decker is not germane to the original resolution, and, therefore, out of order.

Sustained. (27th, p. 52.)

Mr. Satterwhite offered the following substitute for the resolution inviting Governor Hogg to use Hall for an address (page 274):

"Whereas, ex-Governor Hogg has been invited to address the Joint Committee on Constitutional Amendments Tuesday evening, be it

"Resolved, That when the House adjourns forenoon tomorrow that it stand adjourned until Wednesday morning, 9:30."

Mr. Aldrich raised the point of order that the substitute was not germane to the pending resolution, and therefore out of order.

Sustained. (27th, p. 304.)

A joint resolution was pending, proposing certain amendments to the Constitution.

Mr. Garner offered a substitute providing for a convention to frame a Constitution for the State of Texas.

Mr. Shannon raised the point of order that the substitute by Mr. Garner was not germane to House Joint Resolution No. 1, and therefore out of order.

The Speaker sustained the point of order.

Mr. Garner appealed from the ruling of the Chair. The House sustained the Chair by a vote of 79 to 23. (27th, p. 459.)

Pending a resolution to erect a railing in the rear of the Hall separating the lobby from the desks of the members, Mr. Isaacs offered the following substitute resolution:

"Resolved, That no one shall be allowed the floor of the House during session except members of the House and Senate and the officers and clerks and employes of both bodies, Governor of the State and Lieutenant Gov-

ernor and the heads of the several departments, ex-members of the House and Senate who have no personal interest in matters pending in either branch of the Legislature, and such members of the press as are actively engaged in the discharge of their duties and to whom the Speaker has issued credentials. The south half of the gallery shall be known as member's gallery, and shall be reserved for the accommodation of those visitors to whom members of the House give cards of admission. This rule shall not be suspended except by unanimous consent."

Mr. Mulkey raised the point of order that the substitute, being in the nature of an amendment to the rules of the House, it must necessarily go over one day before it can be considered, and, furthermore, that it is not germane to the resolution under consideration.

Sustained. (28th, p. 87.)

SPECIAL ORDERS.

A special order having been made and undisposed of precludes the making of another special order until that one is disposed of.

Mr. Kennedy of Limestone raised the point of order that the motion was out of order for the reason that there is a special order now pending in the House, same being House bill No. 173, and that no other special order can be made until same is disposed of.

Sustained. (27th, p. 358.)

Must be considered from day to day and can not be postponed.

A bill having been taken up as a special order, Mr. Heslep moved to postpone further consideration until Monday.

Mr. Satterwhite raised the point of order that the bill had been taken up this morning as a special order and must be considered from day to day until disposed of.

Sustained. (27th, p. 403.)

Special orders have the right of way.

The Speaker laid before the House, as unfinished business from yesterday, same being a special order, S. H. B. No. 183.

Mr. Cobbs raised a point of order on consideration of the bill today, stating that, this being Senate

bill day, under the rules, the bill should go over until tomorrow, unless taken up under suspension of the regular order, under the rule making the last six days of the session suspension day.

Overruled. (28th, p. 1010.)

The House having refused to suspend the regular order of business to take up House bill No. 218, Mr. Rosser Thomas moved to make it a special order for next Wednesday.

Mr. Dean raised a point of order on consideration of the motion, on the ground that the bill is not on the Speaker's table.

Overruled. (29th, p. 1056.)

Mr. Canales raised a point of order on further consideration of the bill at this time and stated that the hour set apart for taking up the Special Order had arrived, and that the House should proceed at once with its consideration.

Sustained. (30th, called, p. 62.)

Held that House bills pending on special orders cannot be considered on Senate Bill day unless all Senate bills have been disposed of.

On April 30th, on motion of Mr. Canales, the House by a vote of 71 to 27 ordered that House bill No. 67 be made a special order to be taken up and placed on its second reading and passage to engrossment, tomorrow, Wednesday, May 1, at 9:30 a. m. When that hour arrived Senate bill No. 4 was pending before the House.

Mr. Terrell of McLennan raised a point of order on consideration of the bill at this time on the ground that House bill No. 67 had been set as a Special Order for this hour, and that the Speaker should lay said bill before the House.

The Chair held that this being Senate bill day, Senate bills take precedence over other matters until disposed of. (30th, called, p. 150.)

SUBJECTS OF LEGISLATION.

House concurrent resolution No. 1, requesting the President of the United States to open negotiations with the treaty-making power of the Republic of Mexico with the view of attaining a reciprocity treaty with that Republic looking to the encour-

agement and exportation of grain, grain products, blooded cattle, hogs and hog products and poultry and poultry products to said Republic.

Mr. Witcher raised a point of order on consideration of the resolution on the ground that the subject matter contained in the resolution had not been submitted by the Governor to this Special Session, and that, therefore, it was not proper to consider the same.

Overruled. (29th, called, p. 87.)

A House bill was pending, taxing property passing by will or descent or by grant or gift taking effect upon the death of the grantor or donor. This was during a called session of the Legislature.

Mr. Canales raised a point of order on further consideration of the bill on the ground that it does not come within the subject matter embraced in the proclamation of the Governor convening the Special Session, nor within the message of the Governor transmitted to the Special Session, and stated that, therefore, the House had no authority whatever to consider the subject matter contained in House bill No. 12.

The Chair (Mr. Hamilton) overruled the point of order.

Mr. Canales appealed, and the House sustained the Chair. (30th, called, p. 57.)

Bill taxing inheritance pending. It had been introduced before the message, referred to in the point of order, was sent to the House.

Mr. Brown of Wharton raised a point of order on further consideration of the bill, stating that, in view of the fact that the Governor has seen fit to send another message to the House, specifically embracing an "inheritance tax," he (Governor) does not construe his former message as embracing same, and that this bill should be referred to a committee, reported back to the House and take its place on the calendar as a new bill.

Overruled. (30th, called, p. 69.)

SUSPENSION OF THE REGULAR ORDER.

The fact that the House has refused to suspend the regular order does not prevent the making of other motions to suspend the regular order of business.

A motion was made to suspend the regular order of business.

Mr. Schluter raised a point of order on consideration of the motion to suspend, stating that, as the House had just twice refused to suspend the regular order, it was an indication that the House desired to take up the bills on the Speaker's table in the manner prescribed by the rules and that further motions, at this time, to suspend were in their nature dilatory and should not be entertained.

Overruled. (28th, p. 678.)

VETOED BILLS.

Section 14, Article 4, of the Constitution says:

"Every bill which shall have passed both Houses of the Legislature shall be presented to the Governor for his approval. If he approve, he shall sign it; but if he disapprove it, he shall return it, with his objection, to the House in which it originated, which House shall enter the objection at large upon its Journal, and proceed to reconsider it. If, after such reconsideration, two-thirds of the members present agree to pass the bill, it shall be sent, with the objections, to the other House, by which likewise it shall be reconsidered; and if approved by two-thirds of the members of that house, it shall become a law; but in such cases the votes of both Houses shall be determined by yeas and nays, and the names of the members voting for and against the bill shall be entered on the Journal of each House, respectively."

In the opinion of the writer, the plain provisions of the Constitution have not always been adhered to in the consideration of vetoed bills returned to the Legislature by the Governor. The rule in Congress, however seems to obtain, as the rules of the House are silent on that point. In Congress it is the usual, but not invariable rule, that a bill returned shall be read and considered at once. It has been held that the Constitutional mandate that the House or Senate, as the case may be, shall proceed to the reconsideration does not preclude a motion to postpone to a day certain. A vetoed bill is a privileged matter and may be taken from the table at any time, though it was laid on the table. It has been held that the motion to refer a ve-

toed bill would be in order. There are instances both in Congress and in the Texas Legislature where vetoed bills have not only been referred to the committees, but where new bills have been presented in lieu of those vetoed. Questions touching this method of procedure were fully threshed out in the Twenty-sixth Legislature.

Several railroad consolidation bills were passed and presented to the Governor, who vetoed three of them. These bills were returned to the Senate, from which they originated. New bills in lieu of each of them were offered and adopted.

Senate bill No. 154, authorizing the M., K. & T. Ry. Co. of Texas to purchase and acquire certain other railroad lines was vetoed by the Governor and returned to the Senate, which passed the bill over the Governor's veto, and the bill was transmitted to the House, where Mr. Scurry moved to refer the bill, with accompanying veto, to Committee on Internal Improvements.

Mr. Pitts raised the point of order that it is not proper to refer a vetoed bill to a committee, since the bill has already been referred to a committee, reported favorably, passed by both houses, sent to the Governor and by him returned with his objections thereon, and that the pending question should be:

Shall the bill pass, notwithstanding the objections of the Governor?

The Speaker held the point of order not well taken. (26th, p. 1014.)

Mr. Garner raised a point of order and said:

"Mr. Speaker: I raise the point of order that this bill cannot be referred to any committee of this House at this time, because the objections of the Governor, which were sent to the Senate in his veto message, have never been sent to this House, and we do not officially know that the Governor has vetoed the bill. 2. Because Section 14, Article 4, of the Constitution expressly says that the bill with the objections shall be returned. The objections of the Governor, not being before this House, then the bill cannot possibly, under the provisions of the Constitution just cited, be before this House for any purpose. The objections of the Governor should be before this House, or else how can we

know what those objections are? How is the committee to which this bill is referred going to know what the Governor's objections are unless the objections accompany the bill? The Constitution, parliamentary law and common sense each say that before a body can reconsider a bill which has been vetoed, it at least should know what those objections are."

In ruling on above point of order, the Speaker stated that the Secretary of the Senate failed to send the veto message with the bill and Senate message and when his attention was called to the omission he promptly sent it to the House, and held that the mere omission of the Secretary to send the message with the bill was not material, as the House had the right to call for the message at any time. (26th, p. 1014.)

The motion to refer was adopted; yeas 85, nays 14.

Senate bill No. 193, authorizing the St. L. & S. W. Ry. Co. to acquire certain lines was likewise vetoed by the Governor and passed over the Governor's veto by the Senate and transmitted to the House.

Mr. Dorroh moved to refer the bill to the Committee on Internal Improvements,

Whereupon,

Mr. Decker rose to a point of order, and said:

"Mr. Speaker: On the question of the right of a member to discuss the motion to refer or commit Senate bill No. 193, known as the Cotton Belt consolidation, to the Committee on Internal Improvements, I raise the point of order that this bill has been heretofore referred to committees of both the Senate and House, finally passed and vetoed by the Governor, and is now before the House on the motion to pass over the Governor's veto, and therefore on the motion to refer to committee, under Robert's Rules of Order, page 63, Section 22, Rules of Congress, page 524, the motion opens up for discussion the main question."

In ruling on the above point of order, the Chair held that limited debate only would be allowed, and stated that members desiring to speak should appeal from the decision of the Chair.

There was no appeal. (26th, p. 1015.)

Mr. Garner rose to a point of order and said:

"Mr. Speaker: I submit for your consideration the following points of order relative to action now proposed in regard to Senate bill No. 193:

"Section 14, Article 4, of the Constitution provides; 'Every bill which shall have passed both houses of the Legislature shall be presented to the Governor for his approval. If he approve, he shall sign it; but if he disapprove it, he shall return it, with his objections, to the house in which it originated, which house shall enter the objections at large upon its Journal, and proceed to reconsider it. If, after such reconsideration, two-thirds of the members present agree to pass the bill, it shall be sent, with the objections, to the other house, by which likewise it shall be reconsidered, and if approved by two-thirds of the members of that house, it shall become a law.'

"This section of the Constitution, as above cited clearly contemplates or provides that this House must have before it Senate bill No. 193, and the objections of the Governor, before this body can proceed to take any action upon said bill whatever. The Senate having failed to send to this body the objections of the Governor, as urged or set forth by the Chief Executive in vetoing said Senate bill No. 193, said bill is not properly before this House for consideration; and in the absence of the Governor's objections to said bill the House cannot legally take any action looking to or seeking to make any disposition of the bill at this time; therefore, the motion to refer the bill to a committee is irregular and out of order until the Senate transmits to this House the Governor's objections to the bill now under consideration.

"Second. The Speaker is in error in ruling a motion to refer Senate bill No. 193 to the Committee on Internal Improvements to be undebatable. See Section 22, page 63, Robert's Rules of Order, which provides that this motion takes precedence of the motions to amend or indefinitely postpone, and yields to any privileged or incidental question and also to the motion to lie on the table, or for the previous question.

or to postpone to a certain day. It can be amended by altering the committee, or giving it instructions. It is debatable, and opens to debate the merits of the question it is proposed to commit.'"

The Speaker held that the mere omission of the Secretary of the Senate to send to the House, with the bill and Senate message, the veto message of the Governor was not material, because the House could ask for the transmission of the message, and the Secretary of the Senate did, in fact, transmit the message to the House as soon as his attention was called to the omission.

On the second point of order the Chair held that the motion to refer was open to limited debate only, and asked that an appeal be taken from the ruling of the Chair.

There was no appeal. (26th, p. 1015.)

After the above bills had been referred, the Speaker stated that the veto message of the Governor on the two bills did not accompany the bills.

Mr. Shannon then moved that the Secretary of the Senate be requested to transmit to the House the veto messages of the Governor on the bills above named.

Mr. Powell raised the point of order that the bill has been referred to a committee, and this motion comes too late.

The Speaker held the point of order not well taken, and stated that the absence of the documents referred to, on account of the failure of the messenger to transmit same, would not prevent the House from taking such action on the bills as to it might seem proper.

The motion of Mr. Shannon prevailed.

Later the Secretary of the Senate transmitted the veto messages. See Speaker's ruling above on points of order raised by Mr. Garner. (26th, p. 1017.)

The committee to which Senate bill Nos. 154 and 193 were referred reported, asking for further time, while a minority of the committee reported back to the House a recommendation that said bills do not pass over the veto of the Governor. The majority report was adopted.

In voting against the adoption of the majority report, Mr. Wooten said:

"I vote 'no' because I do not believe that there is any authority in the Constitution or rules of the House for referring a veto message to a committee, and the tactics adopted in regard to these bills is a violation of the Constitution, as well as a filibustering method of defeating a veto without coming to a vote on it."

H. B. No. 334, the bill proposed in lieu of Senate bill No. 193 (vetoed), was pending in the House.

A bill having been vetoed by the Governor and upon its receipt in the House it was referred to a committee. Before the committee reported the bill, another bill upon the same subject had been introduced.

Mr. Wooten rose to a point of order and said:

"Mr. Speaker: I make the point of order that the Chair having stated and held that the pending bill is substantially the same as Senate bill No. 154 on the same subject, which has been vetoed by the Governor, and is now pending on reconsideration in the Committee on Internal Improvements, the House cannot consider this bill.

"(1) Because the Constitution and rules of the House do not authorize the consideration of a new bill, when a bill on the same subject has been passed and vetoed and is pending on reconsideration under the veto, but the vetoed bill must be first disposed of.

"(2) The original bill is, in contemplation of law, a defeated bill, because it has been vetoed and the House has not overridden the veto, nor acquiesced in it by definite action. If the veto is sustained by the House, then this bill can not be considered, as it covers the same subject. If the veto has been sustained and is still pending, this method of avoiding decisive action on the veto is wholly unwarranted and is in violation of the constitutional procedure for acting on a veto message. Therefore, this bill can not be properly considered at this time."

The Chair held the point of order not well taken on the ground:

(1) That the original bill has not been "considered and defeated by

either House of the Legislature," as provided in Section 34, Article 3, of the Constitution.

(2) That, when the vetoed bill was received from the Senate, the House had referred it to the Committee on Internal Improvements, and the House has granted further time to said committee for consideration of said bill.

(3) The point of order is not sustained by precedent in this or any other State. (26th, p. 1126.)

The same procedure was gone through with in reference to Senate bill No. 141, the H. & T. C. bill, and during the consideration of the new bill in lieu of the vetoed bill,

Mr. Wooten rose to a point of order, and said:

"Mr. Speaker: I make the point of order that the Chair having stated and held that the pending bill is substantially the same as the Senate bill on the same subject, which has been vetoed by the Governor, and is now pending on reconsideration in the Committee on Internal Improvements, the House can not consider this bill:

"(1) Because the Constitution and rules of the House do not authorize the consideration of a new bill when a bill on the same subject has been passed and vetoed and is pending on reconsideration under the veto, but the vetoed bill must be first disposed of.

"(2) The original bill is in contemplation of law a defeated bill, because it has been vetoed and the House has not overridden the veto nor acquiesced in it by definite action. If the veto is sustained by the House, then this bill can not be considered, as it covers the same subject. If the veto has not been sustained and is still pending, this method of avoiding decisive action on the veto is wholly unwarranted and is in violation of the constitutional procedure for acting on a veto message. Therefore, this bill can not be properly considered at this time."

The Chair overruled the point of order on the ground:

1. That the original bill has not been "considered and defeated by either House of the Legislature", as provided in Section 34 of Article 3 of the Constitution.

2. That when the vetoed bill was received from the Senate the House had referred it to the Committee on Internal Improvements, and the House has on today granted further time to said committee for consideration of said bill.

3. The point of order is not sustained by precedent in this or any other State.

Mr. Smith of Grayson also rose to a point of order, and said:

"Mr. Speaker: I raise the point of order that House bill No. 782 is the same as Senate bill No. 141, which has been vetoed by the Governor, and that the only bill on this subject that can be considered is Senate bill No. 141, in the manner prescribed by the Constitution; that if House bill No. 782 is not in substance the same as Senate bill No. 141, then that the same can not be considered unless a new notice has been published and exhibited, it being a special law."

The Chair overruled the point of order for the reason that the question whether notice has been given and the sufficiency of the same is for the House to determine in the first instance, and not the Chair, and finally, a question for the courts. (26th, p. 1114.)

VOTING—RULE II.

The rules of the House expressly provide that no member shall be permitted to vote in any case when he was not within the bar of the House when the question was put and if his vote be challenged on that ground, the Speaker shall ask him whether he was within the bar of the House when the question was put, and if he answers in the affirmative, he shall be permitted to vote. To be within the bar of the House, a member must be on the floor of the House and within the walls enclosing same. A member absent in a committee room, or in the reception room, or in the Sergeant-at-Arm's room, when the question is put, is not entitled to vote; but this rule has been flagrantly violated and is seldom adhered to. Likewise is that provision which prohibits a member making an explanation of his vote.

The Speaker does not vote except

where his vote would be decisive. But a member called temporarily to the Chair may vote.

When the Clerk announced that the vote was a tie, and Mr. Smith of Grayson, in the Chair, not having voted, directed the Clerk to record him as voting "nay," Mr. Bailey raised the point of order that a member of the House called to the Chair temporarily by the Speaker did not have the right, under the rules, to cast the deciding vote when the Speaker-elect is present on the floor.

The Chair held the point of order not well taken. (26th, p. 1441.)

VOTING—VERIFICATION OF.

There is no rule or provision providing for a recapitulation or a verification of a yea-and-nay vote.

A member may not, as a matter of right, demand a recapitulation or a verification of a yea-and-nay vote, but if the vote be close the practice in Congress and in the House has been for the Speaker to order it.

When the verification of a yea-and-nay vote has been demanded, no member has a right to have his vote recapitulated unless he actually voted; and no member can change his vote.

Under no sort of a circumstance should a member be permitted to change his vote after the result has been announced.. To do this would establish a dangerous precedent that might lead not only to confusion, but which would open the door to fraud.

Pending the verification of a vote, several members came into the hall who were absent when the roll was called, and,

Mr. Terrell of Cherokee rose to a point of order, stating the fact, naming the members, and requested that they be allowed to vote after having the question stated to them by the Chair.

The Chair overruled the point of order, stating that the result having been announced and a verification demanded, no change could be made except to correct an error where a member had been wrongly recorded when his name was called. (30th, called, p. 271).

JOINT RULES OF THE TWO HOUSES.

Disagreement between the two Houses.

1. In every case of an amendment in one House, and dissented to by the other, if either house shall request a conference and appoint a committee for that purpose, and the other House shall appoint a committee to confer, such committee shall, at a convenient hour to be agreed on by their chairmen, meet in their conference chamber and state to each other, verbally or in writing, as either shall choose, the reasons of their respective Houses for and against the amendment and confer freely thereon.

2. After each House shall have adhered to their disagreement, a bill or resolution is lost.

3. When a bill or resolution which shall have passed in one House is rejected in the other, notice thereof is to be given to the House in which the same may have passed.

Communication between the two Houses.

4. When a message shall be sent from the Senate to the House of Representatives, it shall be announced at the door of the House by the Doorkeeper, and shall be respectfully communicated to the Chair by the person by whom it may be sent.

5. The same ceremony shall be observed when a message shall be sent from the House of Representatives to the Senate.

6. All messages relating to the passage, substitution or amendment of any bill, resolution or other matter in passage between the two Houses, shall be sent by such person as a sense of propriety in each House may determine to be proper, and shall be in writing, on but one side of separate sheet or sheets of paper, and shall be properly addressed to the presiding officer of the House to which the message be sent, and shall be signed by the person delivering the same, in his official capacity, and such message, as written, shall be printed in full in the Journal of the House receiving the same.

7. While bills and resolutions are on their passage between the two

Houses, they shall be on paper, and under the signature of the Secretary or Clerk of each House, respectively.

8. Each House transmits to the other all papers on which any bill or resolution may be founded.

Consideration of bills in the respective houses and the final passage thereof.

9. When any Senate bill shall be reached upon the calendar or shall be before the Senate for consideration, it shall be the duty of the President to give the place of such bill on the calendar to any House bill which has been referred to and reported from a committee of the Senate containing the same subject or to lay such House bill before the Senate to be considered in lieu of such Senate bill.

10. When any House bill shall be reached upon the calendar or shall be before the House for consideration, it shall be the duty of the Speaker to give the place of such House bill on the calendar to any Senate bill which has been referred to and reported from a committee of the House containing the same subject, or to lay such Senate bill before the House to be considered in lieu of such House bill.

11. No bill shall be considered unless it has first been referred to a committee and reported thereon; and no bill shall be passed which has not been presented and referred to a committee at least three days before the final adjournment of the Legislature. (Constitution, Article 3, Section 37). And no vote shall be taken upon the passage of any bill within the last twenty-four hours of the session, unless it be to correct an error therein.

Enrolling and signing of bills and resolutions and their presentation to the Governor.

12. After a bill shall have passed both Houses it shall be duly enrolled on paper by the Enrolling Clerk of the House of Representatives or of the Senate, as the bill may have originated in the one or the other house, and properly signed by the presiding officer of each House, as required by the Constitution, before it shall be presented to the Governor.

13. When bills are enrolled they may be examined by a joint com-

mittee of three from the Senate and three from the House of Representatives, appointed as a standing committee for that purpose, who shall carefully compare the enrollment with the engrossed bills as passed in the houses, and carefully correcting any errors that may be discovered in the enrolled bills, make their report forthwith to the respective Houses.

14. After examination and report, each bill shall be signed in the respective Houses—first by the presiding officer of the House in which it originates, then by the presiding officer of the other House, in accordance with Article 3, Section 38 of the Constitution.

15. After a bill shall have thus been signed in each House, it shall be presented to the Governor for his approbation by the enrolling committee of the House in which it originated, it being first endorsed on the back of the roll, certifying in which House the same originated, which endorsement shall be signed by the Secretary or Clerk, as the case may be, of the house in which the same did originate, and shall be entered on the Journal of such House. The said committee shall report the day of presentation to the Governor, which time shall be carefully entered on the Journal of the House in which the bill originated.

16. All orders, resolutions and votes which are to be presented to the Governor of the State for his approbation shall also, in the same manner, be previously enrolled, examined and signed, and shall be presented in the same manner and by the same committee as provided in the case of bills, and said report shall be accompanied by a copy of said bill as a part of said report, which said copy may be typewritten or printed, partly written and printed, or written and partly printed, and, unless it is a local bill, it shall be printed in the Journal of the House or Senate to which said report is made.

Elections by joint vote of both Houses.

17. In all elections by joint vote of the two Houses of the Legislature, the Senate will, upon invitation,

meet the House in its hall at the hour agreed upon. The President of the Senate shall take a seat at the right of the Speaker, and the Senators shall take seats in front of the Speaker's desk. The Speaker of the House will preside. The names of the Senators shall then be alphabetically called, after which the names of the Representatives shall be called in like manner, and if a quorum of both Houses answer to their names, the two Houses will proceed with the business for which they have met. The President of the Senate shall first call for nominations by Senators, and the Speaker of the House shall then call for nominations by Representatives. Nominations being made, the names of the Senators shall be called by the Secretary, and their votes recorded by him. The names of the Representatives shall then be called by the Clerk, and their votes recorded by him, and the result shall be handed to and announced by the Speaker. Should a majority be required to elect, and no person receive a majority, the voting shall be repeated until an election is made. After the conclusion of the election for which the two Houses have met in joint session, the Senate shall retire to its chamber, and the result of the joint vote shall be entered on the Journal of each House.

18. If a quorum of either house shall fail to attend a joint session, or absent themselves therefrom without the permission of such House, the members of the House so wanting a quorum, if ten in number, shall have the right to compel the attendance of the absentees in accordance with its own rules; and after a reasonable time, if a quorum is not obtained, the joint session may be adjourned by the vote of a majority of the members of either House, which vote shall be taken by the presiding officer of either House, on the motion of any one of its members, without debate.

19. If no choice shall have been made on the first ballot or vote, at any time thereafter, the joint session may be adjourned, with or without naming another day for meeting,

by the vote of a majority of either House, which vote shall be taken by the presiding officer of either House, on the motion of any one of its members, without delay.

20. In all conferences between the Senate and the House by committee, the number of each committee shall be five (5), and all

votes on matters of differences shall be taken by each committee separately, and it shall require a majority of each committee present concurring upon the matter in dispute to determine it. The reports of all conference committees must be signed by a majority of each committee of the conference.